

1893-038 Chancery Causes: William A. Orr vs. Adm. of R. S. Orr to
Lee Co.

Pennington, Wells, Duncan, Stout, Spencer, Baker, Yancy,
Stallard; Lucas, Barron, Musick

CA - Estate Dispute

T - Property

- Deed

- Land survey

1 Virginia,

2 To the Hon. T. K. Monahan, Judge
3 of the Circuit Court of Lee County:
4 Humbly Complaining, your orator, Tom
5 A. Orr, would respectfully represent and
6 shew unto your Honor, that on the 7th
7 day of April, 1883, his father, David
8 M. Orr, was seized and possessed of a Moiety of
9 a valuable tract of land, lying and being in
10 Graham Station, Lee County, Virginia, said
11 tract containing two hundred and fifty acres,
12 more or less, and said Moiety being then worth
13 not less than three thousand ~~dollars~~ and
14 five hundred dollars, and which tract
15 of land was conveyed to the said David
16 M. Orr and Rebecca Orr, his wife, jointly, by
17 R. W. Layman and wife, the father and mother of
18 the said Rebecca Orr; that the said David
19 M. Orr departed this life on the 7th day of
20 May, 1883, intestate; that he had not been
21 physically or mentally able and competent
22 to make a contract and execute a deed
23 for a period of time longer than one month
24 before his death; that while the said David
25 M. Orr was severely afflicted, and while
26 undergoing the pain and suffering of
27 his last illness, and while his
28 judgment and will power was
29 unbalanced, injured and impaired
30 by pain and disease, his son R. L.
31 Orr, who was single, and who
32 was then residing with him, took

(Track) 1 advantage of his father's suffering, weak
 2 mental condition, and the absence of
 3 his father's other three children - two of
 4 whom resided in Green County, Tennessee,
 5 and the other, your orator, at Jonesville, Va,
 6 to ~~unduly influence~~ and force his almost
 7 dead father to deed to him his interest in
 8 the the land herein described, by claiming
 9 from his father a debt of one hundred
 10 dollars and by threatening, that if he did
 11 not so - deed it, that he would leave him in
 12 his physically and mentally helpless condition,
 13 and leave the country, which demand for
 14 money and threats to leave, so distressed and
 15 affected the mind of D. M. Orr, that, he undertook
 16 to comply with the unjust and unreasonable
 17 demands of his said son in order that he
 18 might have peace the remaining short
 19 period of his life, and thus the pretended
 20 deed of April 7th, 1883, was procured by R. S.
 21 Orr, and was prepared by C. T. Lincum, an
 22 Attorney, and a Certificate of acknowledgment
 23 written and dated on that day by said Attorney,
 24 but your orator alleges that the said paper
 25 was not executed, nor acknowledged, nor
 26 delivered on the 7th day of April, 1883, as
 27 certified by J. B. Remington J. P. on that day,
 28 nor, in fact, on any other day; that there
 29 is no legal Certificate of acknowledgment
 30 of said paper. A copy of said pretended
 31 paper or deed is filed herewith marked
 32 "Exhibit A" as part hereof.

1 By an inspection of Exhibit A. it will be seen
 2 that the Considerations therein mentioned were
 3 natural love and affection, support and
 4 maintenance, one half of said one hundred
 5 dollars, and certain sums to be paid to
 6 the other three Children of J. M. Orr one two
 7 years from the death of himself and wife
 8 or the survivor of them, and, without
 9 interest till demanded after the said two
 10 years. The wife of J. M. Orr appears to
 11 have joined in said deed, but she has
 12 recently, by a decree of your Honors'
 13 Court, in a suit brought by her for the
 14 purpose, had the said paper declared null
 15 and void as to her, and had said tract
 16 partitioned and dower assigned her in
 17 J. M. Orr's Moieties thereof — and should
 18 your honor be of opinion that the
 19 pecuniary Considerations mentioned in said
 20 paper, bear equally upon the two Moieties
 21 of said tract of land, then the true Consider-
 22 ations so far as J. M. Orr is concerned
 23 in said paper mentioned, were \$50.⁰⁰,
 24 claimed by R. L. Orr as paid to the Widow
 25 here, \$50.⁰⁰ yet to be paid to said heirs,
 26 if ever demanded, the support and
 27 maintenance of J. M. Orr during his
 28 life, and \$75.⁰⁰ to be paid to each of
 29 his other three Children, one two years
 30 after his death, and without interest till
 31 demanded, making an aggregate sum
 32 of \$225.⁰⁰.

1 As to the natural love and affection, your
 2 orator is not disposed to contradict that
 3 recital in said deed, (which he supposes
 4 was only put in by the Attorney for effect,)
 5 but your orator alleges that the said
 6 D. M. Orr thought no more of R. A. Orr than
 7 he did of either one of his other children;
 8 that such a thing would have been at
 9 variance with the sayings and
 10 doings of his passed life; that he
 11 had often said that he would make
 12 no difference between his children
 13 and that the "Law made as good a will"
 14 as he wanted; that he had spurned previous
 15 requests of R. A. Orr to deed him his land
 16 for nothing when he was able to judge of
 17 the value of his property, and other things,
 18 and to exercise proper thought and
 19 consideration of each and all of his
 20 children, whereupon R. A. Orr left his father
 21 and went to Green County, Tennessee, but
 22 finally returned and when his father got
 23 into the condition herein described, he
 24 accomplished as he thought, his most
 25 urgent design.
 26 The support and maintenance of D. M. Orr
 27 only lasted a few days or weeks, and,
 28 the said R. A. Orr well knew on the 7th day
 29 of April, 1883, as did the most casual
 30 observer, that David M. Orr could not live
 31 but a few days or weeks at most.
 32 Therefore, your orator alleges that the consideration

1 mentioned in said paper are so grossly
 2 inadequate and manifestly insignificant that
 3 it would be impossible to state them to a man
 4 of Common Sense without producing an
 5 exclamation, and, when the value of the
 6 land is properly understood, a Conveyance of
 7 the same for the Considerations named,
 8 under the Circumstances, is an act
 9 that no man in his senses, and not
 10 under undue influence, or under delusion,
 11 would make on the one hand, and
 12 that no fair man would accept
 13 on the other.

14 Your Orator Charges that the said R. S.
 15 Orr used the \$100⁰⁰ debt, claimed by him off
 16 of his father and mother as a weapon with
 17 which to Force his sick and distressed father
 18 to convey to him his land; that he knew that his
 19 father had no ready cash with which to pay him
 20 said \$100⁰⁰; that R. S. Orr told his father that he
 21 would leave him at once if he did not give
 22 him his land; that he asked his mother, Rebecca
 23 Orr to aid him to Force his father to give
 24 him his land, saying to her that he, his
 25 father, could not live long; and that he
 26 impressed the idea upon his father that
 27 it was of great value to support old and
 28 can for sick persons, well knowing that
 29 his father had plenty of personal property to pay
 30 his debts and support him as long as he
 31 could possibly live; that R. S. Orr never did
 32 pay one cent for either the supports or the

(the)

1 funeral expenses of S. M. Orr, that he
2 did not repay himself out of the personal
3 estate of S. M. Orr.
4 Your orator now alleges that after the
5 death of S. M. Orr the said R. L. Orr took
6 possession of considerable personal estate which
7 belonged to his father, without letters of
8 administration; that out of said personal
9 estate he paid himself all that he had
10 paid for S. M. Orr, including funeral
11 expenses; that he never accounted with
12 your orator for his portion of said
13 personal estate, and your orator is
14 advised that he then became admin-
15 istrator ~~ex se~~ ^{de facto} of the estate of
16 S. M. Orr deceased, and that his, R. L.
17 Orr's estate is bound to account to your
18 orator for his portion of said personal
19 estate of S. M. Orr deceased; And your
20 orator charges that R. L. Orr went into possession
21 of said land under said fraudulent
22 paper, immediately after the death of
23 his father and has occupied the
24 same since that time.
25 Your orator will now further shew unto
26 your Honor that he has become the owner
27 by purchase of the interests of the other two
28 heirs, to-wit: Rhoda E. Wells and Mary W.
29 Wells in said real estate, the evidence of
30 which, if necessary, will be filed in due
31 time as part hereof. Marked "Exhibit B"; that
32 R. L. Orr died August 14th 1888, intestate; that

1 E. W. Pennington has been appointed and
2 has qualified as his administrator; that he
3 left a widow, Lizzie P. Orr and two children
4 to wit: Rinda Orr and R. L. Orr, Jr. both of
5 whom are infants.

6 The prayer of your orator therefore is, that
7 E. W. Pennington, administrator of the estate of
8 R. L. Orr, deceased, Lizzie P. Orr, Rinda Orr and
9 R. L. Orr, Jr. be made the parties defendants to
10 this bill, and that the adults answer the
11 same, but not upon oath, that being here
12 expressly waived, and that a Guardian
13 ad litem be appointed to answer for the
14 infant defendants; that upon a hearing,
15 said petition be declared null and
16 void, and that the estate of R. L. Orr, be
17 held to account to your orator for the rents
18 and profits of said land from the 7th day
19 of May, 1883, till your orator is put into
20 possession of the same, and also for
21 ~~your orator's portion of the personal estate~~
22 ~~of D. M. Orr, deceased, that went into the~~
23 ~~hands of R. L. Orr, that Commissioners be~~
24 appointed to lay off and assign him
25 three fourths of said land. But if
26 mistaken as to the relief here here sought
27 and prayed for, and in the event that
28 the said and should not be declared
29 null and void, then your orator asks
30 that the estate of R. L. Orr, deceased, be
31 held to account to him for the said
32 ~~personal estate~~, and for the amount

1 and him make said and; that
2 your Honor may grant such
3 general relief as may seem just.
4 May process issue directed & B, and as
5 in duty bound your orator will
6 ever pray.

7 B. Allen & M. D. Dowell

8 Of counsel for complainant

9 James W. Orr. p. q.

Wm. A. Orr

Bill in ch

32 31 30 29 28 27 26 25 24 23 22 21 20 19 18 17 16 15 14 13 12 11 10 9 8 7 6 5 4 3 2 1

Ed. Pennington admr et al

Exhibit A

1873 Mr. Wm. B. Biss

Exhibit B

" Mr. Wm. B. Biss

" Mr. Wm. B. Biss

" Mr. Wm. B. Biss

" Mr. Wm. B. Biss

" Mr. Wm. B. Biss

1873 Mr. Wm. B. Biss

Defts

Costs

7.56 Paid

1.00 Paid

Car

2.00 Paid

10.56 Paid

Defts

1.78 Paid

Defts

5.00 Paid

Car

1.50 Paid

Defts Costs

2.20 Paid

Car

4.50 Paid

15.00 Paid

21.86

90 Paid

Defts

22.76 Paid

Defts

20 Paid

Defts

22.96 Paid

To The Honorable H.S.H. Morrison Judge of the
Circuit Court of Lee County Va.

The separate answer of E. W. Penning-
ton Administrator of the Estate of R. S.
Orr. deceased to a bill exhibited against
him and others in this Honorable Court.

Said Respondent says the Complainant's bill
is not sufficient in law to call upon him
to answer in this Court and of this he prays
judgment &c.

Not waiving said demurrer, but
relying and insisting thereon, should
other and further answer be required
answering Respondent says, it is true,
that the said David M. Orr was on
the 7th day of April 1883 seized and
possessed of one equal moiety of
a tract of land situated in John-
ston Lee County Virginia, supposed
to contain 250 acres more or less.
Respondent is not advised of the
value of said moiety of land on
that day. It is true that said tract
of land was owned jointly by
David M. Orr and Rebecca Orr his wife.
It is further true that David M. Orr
deported this life shortly after the
said date of April 7th 1883, and respondent
supposes Complainant has given the

the correct date of his death in his
will, to wit May 7th 1883.

As to whether the said D.M. Orr died
intestate, respondent has no knowledge
and requires proof of the same.
But Respondent says it is not true
that the said David M. Orr was
mentally incompetent to make a
contract or execute a deed
on the 7th day of April 1883, and
if he was mentally incompetent
to transact his business at any
time during the month or more pre-
ceding his death, respondent has
no knowledge of it. Respondent
has been informed and supposes
it is true that the said David M.
Orr was on the 7th day of April 1883
weak and feeble in body; that
he had pulmonary Consumption,
from which he had suffered
for some years previous to
his death, but Respondent is in-
formed that he retained his men-
tal vigor in a marked degree
up to the time of his death.

Respondent denies that the judgment
and will power of the said David
M. Orr, was unbalanced, injured, or

informed at the date of the execution of said deed;

He further denies that R. S. Orr took advantage of his weak and suffering condition to unduly influence and force said father to convey to him his interest in said land, either by claiming from his father a debt, or by threatening to leave him, or in any other way.

Respondent further denies that said deed was made by the said D. M. Orr that he might have been during the remaining period of his life.

Respondent has been informed, and supposes it is true that said deed was prepared by C. J. Duncan, and that the certificate of acknowledgment was written by him, and said respondent avers that said deed was executed and acknowledged on ~~that~~ the day it bears date, so far the said David M. Orr was concerned.

The consideration for the execution of said deed is shown in the deed, and respondent supposes it is truly shown, and respondent avers

that the said R.S. Orr in his life time fully performed and faithfully kept said considerations and stipulations so far as by the terms of said deed they were incumbent upon him, and this respondent as the administrator of the said R.S. Orr dec'd, is able, ready and willing to keep the same in strict accordance with the terms of said deed, if permitted to do so.

It is further true that Rebecca Orr wife of the said D.M. Orr joined in said deed, and it is further true that the said Rebecca Orr after accepting and receiving the provisions and benefits of said deed, for the period of about five years, filed her bill and upon a mere technicality had said deed annulled as to her, and had partition made of said tract, and dower assigned her out of the moiety formerly owned by her husband, the said D.M. Orr.

And said Complainant not satisfied with the wrong and injury thus done to the estate of his dead

brother and that dead brother's infant children, now seeks by a series of unsworn and false allegations to deprive these said infant children of the residue. Respondent does not know what declarations the said David M. Orr may have made prior to the 7th day of April 1883, as to the disposition he intended to make of his property, nor does he know that the said David M. Orr intended to make or thought he was making any undue preference in favor of the said R. S. Orr by the deed of April 7th 1883. The said David M. Orr had then been abandoned by each and all of his other children, he was weak and feeble in health, unable to work, and doubtless desirous of securing for the remainder of his life from his said son R. S. Orr that which he knew he could not obtain from his other children and respondent does not doubt if said other children or either of them had manifested for their father in his sickness

the same kind case that was manifested by and bestowed upon him by the said R.S. Orr that they would have been equal sharers in his bounty, or if even said Children had been as anxious to take care of, aid, and comfort their father while he was sick and feeble, as they have ^{been} to get hold of said property since his death, they would have doubtless fared better.

Respondent knows nothing of R.S. Orr leaving his father and going to Greene County, Tennessee, but if he did so, respondent supposes that he only went to visit his sisters, Not he gone to stay, it would have been nothing more than was done by the complainant, who had long before abandoned his father and mother in their declining years with full knowledge of the weak and feeble condition of his father which now seems to give him so much trouble.

It is true that the support and maintenance of D.M. Orr only lasted a short time after the

date of said deed, but R. S. Orr
did not know, and could not
have known how long his
father would live after that time,
and if the consideration in said
deed has in that respect turned out
to be grossly inadequate and man-
ifestly insignificant, R. S. Orr
did not know it, and could not
have known it at that time.
And whether it could be possible
to state the same to a man of common
sense without producing an exclaima-
tion, respondent is unadvised, and
respondent is advised that the value
of the property has nothing to do with
the matter, because if David
M. Orr at the time he made
said deed was capable of
recollecting the property to be
conveyed, ^{the manner and} the object of that
conveyance, and the party to
whom it was conveyed, then said
conveyance is valid and binding
and inadequacy of consideration
has nothing to do with it. and respon-
dent avers that the said David M.
Orr did know and was fully
capable of knowing the property he

was conveying, the manner of that conveyance, and the objects and purposes of said conveyance, and the person to whom he was making it. that he did the same freely and understandingly, that he was under no undue influence or delusion at the time of making the same.

Respondent denies that R.S. Orr used the \$400⁰⁰ debt claimed by him from his father and mother as a weapon with which to obtain said conveyance. He denies that R.S. Orr threatened to leave his father at once if he did not give him his land. He denies that he asked his mother Rebecca Orr to aid him to force his father to give him said land.

Respondent knows nothing of the personal property owned by D.M. Orr at the date of his death, or whether or not it was sufficient to support him. He knows nothing of how his funeral expenses were paid.

Respondent has been informed and suspects it is true that the said R.S. Orr, did after the death of his father, take charge of

~~use and sell such of the personal estate belonging to the said D.M. Orr as did not by law vest in his widow. And respondent avers that the said A.S. Orr in his life time made full and complete distribution of said personal estate, and that he paid to each his brother and two sisters, his and their respective parts of said personal estate, and he further avers that Complainant the said J.M. Orr was indebted to his brother R.S. Orr at the time of his death for money borrowed and never repaid, and that he paid over the same to this respondent as adm^r of the said R.S. Orr.~~

Respondent avers that the said J. Orr has purchased the interests of his two sisters in the Estate of David M. Orr. He denies that they had any interest to sell and Respondent here expressly denying every allegation not hereinbefore denied or admitted prays to be hence dismissed with his reasonable costs about his defense in this behalf expended &c

And he will ever

May 18
E W Reception
By Council

Lewell

Demmond Mottet

& A Pridmore

C. H. Pennington Sen

July 3rd 1872

Wm. H. Pratt

Filed in open
Court by leave
H. of June 10th 1872
J. A. Syatt

To the Honorable H. S. K. Morrison
Judge of the Circuit Court for Lee
County Virginia:

The Separate demurrer and
answer of Lizzie P. Orr to a bill
exhibited against this Respondent
and others in this Honorable Court
by W. A. Orr.

Your Respondent says that said
bill is not sufficient in law, and
prays judgement on this demurrer.
And, ^{not} waiving said demurrer, but
relying and insisting thereon, should
further answer be required, answer
ing she says:

That she has very little knowledge
of the several allegations in said
bill; that she has been informed,
that David M. Orr departed this life
intestate May 7th 1883; that he
had been in feeble health for some
time before his death. But Respond
ent denies that said David M.
Orr was feeble in mind or incapable

of transacting his business intelligently. Respondent thinks that this attack by the Complainant on the character and fair dealing of his deceased brother would have come with much more grace if it had been made in the lifetime of that brother. And she is advised that a court of Equity will regard with grave suspicion charges made against a dead man that the Complainant had the opportunity of making in his lifetime.

Respondent will here state to your honor that she has carefully read the answer of her co-defendant E. W. Pennington, and she believes said answer to be true in all particulars, and she here adopts said answer as part of her answer, and asks that the same be treated and considered as her answer as if here again repeated in detail.

Respondent here avers that the
deed from D.M. Orr to R.S.
Orr was understandingly made,
and legally and properly well
known, and duly recorded.

Respondent now having
fully answered said bill
and demanding strict proof
of every allegation therein con-
tained, and here denying every
allegation not specially admitted
in this answer or the answer
of E.M. Pennington which she
has adopted as her own, prays
to be hence dismissed with
her reasonable cost in this
behalf & paid.

Lizzie P. Orr,
By Counsel.

American & Matthews,

Bridgman,

Severel,

Attys for Respondent

Lizzie P Orr.

Ado E. Danvers

W. A. Orr.

To the Hon. H.S.K. Morison, Judge of the Circuit Court of Lee County, Virginia:-

The demurrer and answer of Perdrie Orr and R.S. Orr, jr., infants, by E.W.R. Ewing their guardian ad litem, to a bill exhibited against said infants and others in this Honorable Court by William A. Orr. Said respondents say that said bill is not sufficient in law to call upon them to answer in this Honorable Court, and they demur thereto and pray judgement of their said demurrer, and not waiving said demurrer, but relying and insisting thereon, should other and further answer be required of them, answering they say, that they are infants of tender years, that they have no personal knowledge of any of the facts or circumstances alleged in complainants bill; their Grandfather the said David M. Orr having departed this life before the birth of either of said infant respondents; but said respondents are advised, so far as infants of their tender years are capable of being advised, that each and every one of said allegations upon which the bill is founded, is without foundation in truth; and they here and now demand full and strict proof of said allegations. It is true as these respondents are informed that their said Grandfather departed this life intestate, on or about the 7th day of May 1883; that before his death, to wit: on the 7th day of April 1883, he and his wife made, executed, and delivered to their father, R.S. Orr, now deceased, a deed by which they conveyed to him their lands situated in Vocum Station in Lee County, Va. It is also true that since the death of their said father, the said R.S. Orr, their Grandmother, Rebecca Orr, has instituted in this Honorable Court a suit to set aside said deed so far as she was concerned, and that in said suit she was successful. Respondents deny that their Grandfather, the said David M. Orr, was at the time of the execution of said deed, to wit, on the 7th day of April 1883, mentally unable and incompetent to make a contract or execute a deed, they have been informed, and they suppose correctly, that the said David M. Orr was then, and for sometime had been, weak and feeble in health, but they deny that their father took advantage of the weak and suffering condition of his father to induce him to make said deed; they deny that the judgement or will power of the said David M. Orr

2 -

was by his last sickness unbalanced, injured, or impaired, but on the contrary, as they are informed, the said David M. Orr retained his will power and mental vigor in a very marked degree upto the day of his death; it is true, as these respondents are informed, that their father, the said R.S. Orr was, at the date of said deed, a single man still living with and caring for his father, and it is likewise true, that, the other children of the said David M. Orr had left him in his sick and enfebled condition, which is now so distressing to the Complainant, to shift for himself without any assistance from them. But these respondents deny that their father took advantage of the absence of his brother and sisters to unduly influence his father and to force him, when almost dead, to do deed to him his interest in said land. Respondents know nothing about the debt of \$100.00 mentioned as due from the said D.M. Orr to his son R.S. Orr further than as it appears in said deed, the said D.M. Orr acknowledges in said deed that he was then indebted to his son in that sum, and these respondents suppose the acknowledgment is true, if not, the Complainant can doubtless prove it to be false; they know nothing of any threats on the part of their father to leave his father, but if he made such threats, it was nothing more than the Complainant had carried into execution long before the date of said deed. Respondents deny that their grandfather was influenced by any threats to make said deed, they deny that their father used any threats towards his father for the purpose of inducing him to make said deed. It is true that the deed of the 7th day of April 1883 was prepared by C.T. Duncan, and these respondents are informed that the said C.T. Duncan went to the house of the said D.M. Orr to prepare said deed at the solicitation and request of the Complainant in this suit, the said W.A. Orr. Respondents are informed that said certificate of acknowledgement bears even date with said deed and that it was duly acknowledged on the day of its date. Said deed shows the consideration on which it was executed, and the respondents suppose that it shows the true consideration; the complainant seems to sneer at that part of the consideration mentioned and denominated "natural love and affection." Complainant may not understand it, but the said David M. Orr did; and he appreciated that love and care that had been bestowed upon him in his last sickness by a faithful and obedient son and

he doubtless knew that for his remaining days on earth he could rely on that son for support, kindness, and care. Respondents know nothing as to the declarations of the said D.M. Orr that he would make no difference between his said children, nor do they know that he thought by the deed he was making, that he was making any difference between them, the property was his, and as such he had a perfect right to dispose of it as he saw proper, and this he did with a full and perfect understanding of what he was doing, and that at the time he did so he was in the full possession of all of his mental ability. Respondents deny that the said R.S. Orr used the debt of \$100.00 which his father⁴ owed him as a weapon with which to force him to make the deed of the 7th day of April 1883. Respondents deny that the said R.S. Orr ever threatened to leave his father in his last sickness for the purpose of forcing or influencing him to make and execute said deed; they deny that he ever asked his mother to aid him to force his father to give him his land. Respondents know nothing of the personal estate owned by the said D.M. Orr and whether it was sufficiently large to afford him a support for the remainder of his life and pay his debts, or not, certainly if it was so very large as to insure him against all wants during the remainder of his life and pay his debts besides, it is strange that the demand of the small debt of \$100.00 due by him to his son should have been such a bug bear as to cause him to part with a valuable tract of land to get rid of it. Respondents suppose it is true that the said D.M. Orr had some personal estate at the time of his death and they have been informed that their father, the said R.S. Orr took charge of and sold said property after the death of his father; they have also been informed and they allege it is true, that he fully accounted to his brother and his sisters for their part thereof and they further allege that the said William A. Orr the Complainant in this suit is now indebted to their said father's estate for money borrowed from their father in his lifetime and never repaid to him.

+ Respondents are advised that the Complainant comes now⁴ after a lapse of nine years after the death of his father and ~~after a lapse of~~
comes with bad grace
not until after the death of his said brother to attack this deed; it would certainly have looked better and have commanded more respect

pect if the said Complainant had instituted this suit in the lifetime of his brother and not waited till he was dead and unable to refute his ^{false} ~~vile~~ charges. Though perhaps he thinks he may be more successful in his attack on two small infants, whom he perhaps ~~thi~~ thinks are without friends to look after their interests.

Respondents are advised that as they are infants of such tender years that they are peculiarly the wards of a Court of Chancery whose duty it is to protect their interests. And now having fully answered the Complainants bill and here denying every allegation not herein before denied or admitted, and here expressly invoking the full protection of your Honor's Court of Chancery, in so far their right are herein sought to be attacked, the pray to be hence dismissed with their costs &c.

Berdie Tr^{us} R. S. Orr, Jr.,
by E. W. R. Ewing their
guardian ad litem.

Sworn to before me
June 10th 1892. J. A. Styratt

Pradie & R.S. Orr, Jr.

ads

Answer of
H. A. L.

William A. Orr

Filed June
10/89
J. A. Hyatt

dismissed with their costs &c.

their right the herein sought to be attacked. The duty to be hence
the full protection of your honor's Court of Chancery, in so far
not herein before denied or admitted, and here expressly involving
enacted the Complainant's bill and here denying every allegation
whose only it is to protect their interests. And now having fully
viewed that they are peculiarly the wards of a Court of Chancery, in
respondents are advised that as they are infants of such tender age
within are without ability to look after their interests.

processes in his attack on two small infants. And he perhaps for
refuse the vice that is. Though perhaps he thinks he may be more in
claim of his brother and not waited till he was dead and unable to
best if the said Complainant had instituted this suit in the lifetime

Wm A. Orr Plff

vs

E. M. Pennington Admr et al Dfts

(In Chancery)

This cause came on this day to be heard upon the bill of the plaintiff, and Exhibits filed therewith, the answers of the adult defendants, and the answer of E. M. R. Ewing guardian ad litem for the infant defendants, the deposition of witnesses and exceptions thereto, and was argued by Counsel, And it appearing to the Court proper, it is adjudged, ordered, and decreed that the exceptions to the depositions of Rebecca Orr and Wm A. Orr be overruled and the exception to the deposition of M. H. Wells be sustained, and the said bill of the plaintiff be dismissed, and the defendants recover their costs,
Memoranda.

The plaintiff suggests that he feels aggrieved by this decree and desires to appeal therefrom, it is

ordered that the execution
hereof be suspended for
sixty days by the plaintiff
or some one for him
executing a bond in
the penalty of one
hundred dollars, ^{with approved security} condition
ed as the law directs.

Wm. A. Dr.
as Receiver,

Ex. Receiver in and out of

Ex. Receiver

March 10th 1893,

Wm A Orr.

against-

Plff

Inclig.

E. W. Pennington Admr + als Defts

On motion of the defendants E. W. Pennington Admr of R. S. Orr deceased, Lizzie P Orr. and Perdie Orr & R. S. Orr Jr., infants, by E. W. R. Ewing their Guardian ad litem, leave is granted them to file their separate demurrers⁺ answers in this cause and the same were accordingly filed and the plaintiff^{joined in said demurrers⁺} replied generally thereto said^{answers} and the cause is continued.

Wm A Orr

vs { Order
3

E. W. Pennington
Petals

Entered Chas

O. B. Page 420

+28. June 16/89

Wm A Orr

Enter

Wm A Orr

June 16th 1892

1
The depositions of Rebecca Orr, M. H. Wells,
Craig Pennington, Wm. A. Orr, and J. B. Pennington
taken before the undersigned Notary Public
in and for Greene County State of Tennessee,
pursuant to notice, at the dwelling house of
S. H. Wells in said County and State, on the
9th day of August 1892, which depositions
are intended to be read as evidence in be-
half of plaintiff in a certain suit in Chancery
now pending in the Circuit Court of Lee
County Virginia in which Wm. A. Orr is plain-
tiff and E. W. Pennington Administrator of the estate
of R. S. Orr deceased and others are defendants.
Present the Plaintiff and James W. Orr of his
counsel and E. W. Pennington Administrator for
himself and as one of Counsel for defendants.
The said M. H. Wells a witness of lawful
age and being first duly sworn deposes & says.
Tues by Plff's counsel.

Ques. What is your age and where do you reside?
Ans. About 43 years, and reside in
Greene County, Tenn.

Ques. When did you marry & who did you marry?
I married Selamanda Orr, a
daughter of David M. Orr dec'd,
in Sept. 1870.

The examination
of this witness is objected
to, because so far as the

proceedings in this case shows
the wife of this witness is im-
munized in the result of this
cause. Husband can not tes-
tify for or against wife or in
any matter wherein she has
an interest.

C. H. Prumington

for Defto.

Ques Where did you live immediately after
your marriage and how long did you
remain there?

Ans At S. M. Orr's, my wife's
father, until Sept. 1877.

Ques At which time I moved to
Green Co. Tenn. where I
have resided ever since.

Ques Have did you happen to leave S. M.
Orr's? State all about it:

Objected to because any
reason that might be given
to this question for his leaving
would be irrelevant & im-
material to the issue in
this case.

C. H. Prumington for Defto.

Ans. S. M. Orr seemed anxious
for me to stay, but told me

that there seemed to be some dissatisfaction on R. S. Orr's part; so I left & came to this place. R. S. Orr for a while, treated my wife & myself very kindly, but his manner of treatment towards the last part of our stay there seemed cool. I bought land here in Tenn. a year before I moved and intended to move to it a year before I died, but on account of the solicitations of S. M. Orr I remained there a year longer than I had intended.

Ques. Have you and your wife sold your interest in the land in controversy and to whom?

Ans. Have to H. A. Orr

X examined

Ques. 1st Are you ^{now} ~~still~~ the husband of Celamanda (nee Celamanda Orr)?

Ans. I am.

Ques. What was the consideration paid you by Mr. H. A. Orr for your interest in the land in controversy.

Ans. One hundred + fifty dollars.

Ques. Has this money been paid
or not?

Ans. It has not and is still owing to me
+ my wife.

Ques. Is there not some verbal
understanding between you
and Wm. A. Orr, that this
money is not to be ~~paid~~ paid
unless Wm. A. Orr recovers the
land in controversy?

Ans. The understanding was that it was not
to be paid until the suit was decided,
and not then unless Wm. A. Orr gained
the suit? this is stated in the note.

Ques. To whom is the note made pay-
able?

Ans. To my wife and myself.

Ques. Can you state the birthday
of R. S. Orr, or near it?

Ans. The family record shows that he was
born February 1st 1858.

It had been some two years
previous to S. W. Orr's death
that I had seen him.

And further this deponent saith not.

M. H. Wells

Craig Primmington another witness

of lawful age after being duly sworn deposes as follows:

Ques

What is your age and where do you reside?

I am 45 years old and reside in Green County, Tenn. Have been residing in this County some 23 months.

Ques

Where did you reside in 1883.

I lived in about 17 1/2 miles from D. M. Orr's home, in Lin County, Virginia and was born and lived there until I came to this County. I visited D. M. Orr in his last illness frequently. For the last few months of his illness he was confined about his house and sometimes to his bed.

For a month before his death, ~~his death~~ he was debilitated and in a despondent, stupid and sluggish condition. Monday before his death he seemed more bright than for a time before. A month ^{or more} before his death ~~he~~ while he was ~~not~~ insane, I think his mind was weaker than in health; caused perhaps from his disease. I don't remember

that he never mentioned his business matters to me. At that time he seemed to be irritable and peevish, more so than in health. I think, in health, he was a man of firmness and not easily persuaded. For a month before his death ^{surroundings} from his condition both financially and physically I suppose he might have been influenced, but I do not know that he was in any way influenced in making the deed to R. S. Orr that he did make. R. S. Orr at the time said deed was made & was the only one of his children living with him at the time. His two daughters lived in Tenn.; but I don't remember where Wm. A. Orr lived at the time unless it was in Tennessee, where I think he did live.

Ques

Was it or not evident to your mind a month before his death that he could not live long?

Objected to because this question

didn't an opinion from the witness, without it being shown he is a physician?

Prumington for depts.

~~Ans.~~ Ans. I did not think he would live long.

Ques. Was or not the undertaking, one month before his death, to support & maintain him & pay \$275.00 equal in value to the land in controversy?

Objected to because immaterial; the consideration not being necessary to a deed. & because an opinion is asked in the light of subsequent events.

Prumington for depts.

Ans. I don't think it was.

X examined.

Ques. Were intimate with S. M. Orr.

Ans. I was. We frequently visited each other when he was in health.

Ques. Did you ever hear of any thing being said as to undue influence being brought to bear upon the mind of S. M. Orr until after R. S. Orr's death.

Ans. I never heard anything from S. M. Orr or R. S. Orr on the subject, but I heard

Ques. same outside talk in the neighborhood.
A month before S. M. Orr's death,
do you think he had mind
sufficient to comprehend his prop-
erty?

Ans. I suppose he had.

Ques. If an instrument in writing ^{being then}
read to him, do you think he,
a month before his death, had
mind sufficient to understand
its purport?

Ans. I suppose he had.

Ques. After S. M. Orr's death and
up to the death of R. S. Orr
did not Wm. A. Orr visit R. S.
Orr.

Ans. I think he did visit him some. Their
mother was there the most of the time.
And further this witness saith not.
Craig Pennington

Rebecca Orr another witness of lawful
age and being first duly sworn deposes
and says.

Ques. What is your age and where do you reside?

Ans. I am 63 years old and live with
my two daughters in Gen. Co.
Tenn.

Preliminary examination by
Defto.

Ques. 1st were ^{you} not the wife
of D. M. Orr at the time he
the or'd of his land to R. S. Orr.

Ans. I was.

Ques. 2nd. Do you know the land
in controversy in this suit;
if so, state if dower has not
been assigned you in a suit
of yourself against the admr-
widow & heirs of R. S. Orr. in this
land.

Ans. I know the land and dower has been
assigned me in the land.

The examination of this
witness is objected to by the
defto. because she is shown
to have an interest in the
subject matter ⁱⁿ of this suit,
& R. S. Orr being dead; and be-
cause as the wife of D. M.
Orr she can not testify.

C. W. Huntington for Defto.

Ques by Plff's counsel.

Did your husband, D. M. Orr, make a will?

Ans. Not that I know of.

Ques

When did your husband die and what was
his physical & mental condition for a month

Ans.

or more before his death?

He died May 7th 1883. About a month or more before his death he was confined to his bed. I had to turn him over. During this period he was as childish as he could be. He would tell people coming in that we would do nothing for him, while we were doing all we could. Yet he knew people when they came. I could see him when no one was about to talk to him, moving his lips and seemed to be trying to talk to himself. I ~~had~~ never had noticed him doing this until perhaps in the winter before his death.

Ques

State anything R. S. Orr may have done or said in regard to his father deeding him his land.

Ans.

A few days before the date of said deed, R. S. Orr came to me and asked me to go to his father and get him to fix up his business. I told him to let his father alone as he was

too weak to do any business.
 and he said his father might
 die any time. I told him
 he would ~~too~~ get his part any
 way. He said he could not
 live on that, and that if
 he did not fix up his bus-
 iness, he would leave im-
 mediately. I told him I would
 not speak to his father about
 the matter, and did not men-
 tion it to him. D. M. Orr a
 short time after this, told me
 that he reckoned he would
 have to fix up his business, but
 that Simp would not let him
 alone and was threatening to leave
 him, and that he did not
 want to do it, that he now
 wanted to make any difference
 between his children, but he
 could not see what else he
 could do. Soon after this
 Simp went after C. J. Sum-
 cam to write the deed. I told
 my husband I did not want to
 make the deed, and he said we
 did not make Simp the deed
 he did not see what we

Ques

would do, as Simps would have.
Was the deed acknowledged by either one
of you on the day that Duncan came
& wrote it?

This question is objected to
because being a 'matter of &
for record it can not be
disputed but that its date of
acknowledgment is properly
stated.

E. H. Fremington for Deft.

Ans. It was not, nor was it
signed on that day. Several
days after this J. B. Fremington
& H. R. Yarny came to take the
acknowledgments of myself
& husband.

Ques

Please state what was the demeanor of
R. S. Orr toward his father after he had
obtained the deed?

Objected to because immaterial

Fremington for Deft.

Mrs.

Simps was busy on the farm
and did not visit on his father
any. The day before he died
he complained to me about
Simps not giving him attention
I waited on him myself until

W^m A. Orr came and he waited on him until his death. Some few days after said Dad was acknowledged I asked Simp to get a Dr. for his father, and he said it was no use as it would do no good. I told him I knew that, but I wanted the other children satisfied. I told him to go & I would give him a certain knife, and then he did go and get Dr. Staceard who made one visit & Simp paid the bill & took the knife.

Ques.

Was it or not manifest on the day that the deed was written that your husband could live but a short time?

Objected to because leading, immaterial and because an opinion is asked for & not facts.

Pennington for Deft.

Ans.

It was.

Ques

Did you or your husband think any more of R. S. Orr than you did of any of the other children?

This question is objected to, because an opinion is asked as to her hus.

land, and to her own regard for
her children that is immaterial.
Ans. He did not. ^{Birmingham prospects.} There was no special
reason that I know of why said
land should be given to Siraph.
When Wm A. Orr left home to go
for himself he was of age.
During the war while my hus-
band was in the army. Wm A.
Orr was my main stay for
support. My husband ~~was~~ did
not return home until June, 1865.
My daughter married & left
some years before his death.

Ques. Do you or not think your husband when in
health intended to make any disposition
of his property, or did you ever hear him
say anything about it?

This question is objected to be-
cause immaterial & because
an opinion is asked for.

^{Birmingham prospects}

Ans. I do not think he did;
for I have often heard him
say that the law made as
good a will as he wanted.

Ques. When did you first tell Wm A Orr what
you knew about these matters?

Ans. Soon after R. S. Orr died.

Ques Did R. S. Orr ever ask you after the death of D. M. Orr, to sign a deed so that he could sell the land?

Objected to because because immaterial

Running transfer rights.

Ans. He did; - a year or more after D. M. Orr, died, and after he had been to Ky. I refused to do so.

X Examined

Ques. 1st Give the date of R. S. Orr's death.

Ans. August 14th 1888.

Ques. 2nd With whom did you make your home from the death of D. M. Orr to the death of R. S. Orr.

Ans. With R. S. Orr.

And further this deponent says not.

Rebecca Orr

Ans. A. Orr another witness of lawful age after being duly sworn deposes as follows: -

The taking of the deposition of this witness is objected to because ~~the~~ R. S. & D. M. Orr is dead and the proceedings in this cause shows that he

has a substantial interest in
this suit, &c.

E. W. Huntington for pt.

Ques

Have you seen and read the original
deed in controversy and if so in whose
hand writing is it?

Ans.

I saw said deed once before
to day & read a portion of it.
I read the whole certificate
affixed thereto. It appears
to be in the hand writing
of C. J. Duncan. Certificates
affixed thereto are also in
the hand-writing of C. J. Duncan
except the date of the month
of the certificate of Rebecca
+ the signatures thereto
are. I am well acquainted
with C. J. Duncan's hand writing.

Ques

State anything you may know about
this controversy and all you know
in regard thereto?

Ans.

In March or April 1876
I told my father I was soon
to be married; he said he
would like to help me, that
he wanted me to see his land
for him; that, if I could
sell it, he would divide

The money between his children, except a few hundred dollars, which he wanted to buy a small farm in Iowa, on which to reside. He fixed the price at which for me to sell at \$8000⁰⁰ for the whole farm inclusive of my brother's interest therein. In the same conversation, he said Simeon wanted him to give the land to him for his & his wife's support; that he would not give it to him; that he thought if any difference were to be made, it ought to be in my favor, as I had a hard time during the war to support the family. I told him I only cared to be made equal; he said he would pay me well for selling the land, I told for that I would make no charge. Later on I told him I did not think, I could sell his land at his price; he said to string out the payments & try again. In the fall of

1881, I think it was, he sent
a message & a horse to me at
Jourdsville, the message stating
he wanted to see me on business.
I went and he asked me
to walk out with him; he
said that R. S. Orr had re-
quested of him a gift of his
land; that he had refused
to give it to him, and that he
had left him & gone to him.
That he wanted me to take
& run the place until I could
sell it, except what he
and a colored man could
cultivate. I told him that
Simp was young, that I
thought he would soon find
that he could do better with
him than with any one else.
And that I believed he would
soon return, but that if he
did not I would do as he
had requested me. R. S. Orr
soon returned. and all was
satisfactory with my father.
In Feb., 1883. the mail boy
again brought me a horse &

message, I went and he in-
 formed me that R. S. Orr was
 again threatening to leave him,
 & if he did go, that he would
 not return any more. The
 reason of his leaving was
 because he would not give
 him his land & my father
 wanted to know if he did leave
 if I would come & run the
 place. I told him that I
 would come, but I did not
 think Simp would leave, at
 least, not long at a time. He
 said that Simp was doing him
 wrong, that he had caused ^{him} to
 send his grand-mother. ^{him} ~~him~~
 away to John P. Orr's, which he
 thought he himself, in doing
 so, had done wrong. That Simp
 said he could not get along
 with his grand-mother, that he
 would stay if she was sent
 away, & that he thought
 John P. Orr should support her
 the remainder of her life. Now
 he said, that Simp threatened to
 go back on his agreement,
 said he might go, that he

would not give him his land
that he would make modif-
fications among his children
and that he had already done
more for Simp than any
other of his children. In
Feb. 1883 I was with him several
days, and it was then I first
became apprehensive of his
condition of health. I was satis-
fied he would not live many
months. I don't remember him
being outside the yard; he was
in bed the most of the time.
In the fall of 1882 Simp was
talking to me and said he was
going to see every thing he had
& leave the country, if his
father did not send his grand-
mother to John P. Orrs. That
he thought his uncle John
ought to keep her any way.
He said he could not get along
with his grand-mother. I told him
I did not think she ought to be
sent away from the house
at which she had lived so long.
Then there in Feb. 1883 he

was childish and irritable
 & hard to please. When not en-
 gaged in conversation he
 passed his working his lips &
 mumbling to himself. I had
 never noticed this before.

R. S. Orr came to Jonesville
 & in a conversation with me
 he said he wanted to see
 C. D. Simeon. He did not see
 Simeon but told me to tell
 Simeon that he wanted him
 to stop at father's house, as he
 went to Wise Court. I then
 told him that I would be
 more likely to stop, if he
 knew what he wanted. He then
 told me to tell him he want-
 ed him to go down writing
 I told S. what Simeon said.

On the 24th day of April, 1883
 I went to my father's and found
 him very low & stayed until
 May 7th 1883 The day on which he died.
 Several times while I was there
 he told me that Simeon had
 forced him to deed to him his
 land, that he would let him

see no place, that he owed
him \$100⁰⁰; and did not know
how he could pay it; that he
came into the room and said
he would leave up over, un-
less he would give him his
land; that he thought he had
done him wrong; that having
made a difference between his
children was the only trouble
he was having; that a suit
would be brought about it;
that Mr. H. Hells would sue if
no one else would. One of
these conversations was heard by
R. S. Orr, who immediately
made an excuse and went to the
Clerks office of Lee County, and
had the deed placed to record
on May 1st 1853. While I was
there Simp did not work on
his father, he wouldn't stay ~~there~~
in the sick-room.

A few months after fathers
death, Simp said to me, my
wife had been making some
remarks about the way in
which he had gotten fathers
land; and that the people were

talking about it; That it had
 to be stopped and that he wanted
 me to tell my wife to stop it.
 I told him I had ~~&~~ nothing to do
 with the matter & would say nothing
 about it; That he could
 take any course he wanted to
 stop it; That he ought to remem-
 ber that father had told me in his
 hearing that he did not want to
 give him the land and that
 he had done him wrong in
 procuring ~~sons~~ ^{sons} and. He replied
 that those ^{who} he did not like
 what he had done, could help
 themselves and that he did not
 want them about him. I
 told him so far as my wife
 was concerned she could use
 her own pleasure about it; but
 that I myself so long as my
 mother lived there I would come
 when I got ready. My wife
 never visited him, but I did
 frequently. Sometime two or
 three years after father's death
 he told me to get mother to
 sign a deed with him so that
 he could sell the land, and that

he had an opportunity of selling it; that if I would get him to sign it, he would pay me down more than he was bound to pay by the deed. And that he would leave the country.

It is not true I got C. P. Duncan to write the deed in contravention. I was then practicing law at Jonesville at the time. Myself & father were always on good terms. I know no reasons why he should have made a difference among his children.

I left my father in ^{August} ~~May~~ 1871. It is not true he was then in a helpless condition. He was then able to do good farm work & attend to his own affairs. I was then 21 years old. At the time I left him he was 43 years old.

I bought the interest of Mary & Clemanda Wells & have filed this deed marked "53".

I am to pay them \$150⁰⁰ each provided I gain this suit. I asked them to join with me in this suit. That I thought I had evidence sufficient to set the deed aside; They said our suits were expensive, That it was in another State, and That if I wanted to go on with the suit That They would need see their interest, provided I wanted pay them \$150⁰⁰ each, The grant mentioned in the deed should be paid them by R. S. Orr, and I agreed to do so, provided I gained the land.

As soon as I thought I had evidence ^{sufficient} ~~on~~ which to base an action I brought suit. My father never made any will that I know of. I have often heard him say that the law made as good a will as he wanted.

X Examined by Depk.

Ques. 1st At the time you told Duncan that Simpson wanted ~~him~~ ^{him} to stop and do some writing did you

know, or leave any idea of what
he wanted to have written?

Ans. I did not know but I suspected that
he was about to get father to make
some disposition of his property. I thought
it strange, if that was it, that he did
not get me to do the writing.

Ques. 2. Did you take any steps toward
preventing such disposition of
your father's property, if so what?

Ans. I did not. I left my father to do as he
pleased.

Ques. 3. In delivering Simpson's request to
Bunsen, did you not tell
him that to go ahead and
prepare such a writing as your
father might desire & direct;
and that your father had
been contemplating a disposition
of his property for some time?

Ans. I did not.

Ques. 4. How soon after said answer was
made was it before knowledge
had been made?

Ans. I think it was a day or two after I
went there on the 24th day of April 1883.
The first information was from my
father and the next was from the Clerk.

left and further this deponent
saith not.

Wm A. Orr.

John B Pennington another witness
of lawful age and being first duly
sworn deposes and says.

Ques. Were you one of the justices that
attempted to take the acknowledgment
of Rebecca Orr, wife of D. M. Orr dec'd
to the deed to R. S. Orr in question.

Ans. I was.

Ques Who was associated with you as
a justice on that occasion?

Ans. H. R. Yeary.

Ques Did you or not attempt to take the
acknowledgment of D. M. Orr on
the same day.

Ans. Objected to because the certifi-
cate ~~can~~ not be impeached
by the justice who certifying the
date — Pennington for depts

Ans. That is my recollection
that it was on the same day
I see that the certificate is
dated differently, but it is not
in my hand-writing. I only
signed my name to it.

Examined by Deft.
Did you sign the certifi-
cate ~~to~~ ^{as} said deed and
sub. April 7th 1883.

Ans. I did.

Ques. Was C. F. Duncan
there the day you took
the acknowledgment of
S. M. Orr.

Ans. He was there when I went there, but
left, going up the country.

Ques. Where was this acknowl-
edgment taken?

Ans. At S. M. Orr's house.

Did you or any one else
read said deed to S. M. Orr
before he signing it?

Ans. I think Duncan read it to him.

(Wit & Sub) And further this witness saith nat.
J B Pennington

State of Tennessee
County of Greene S.S.

I J. H. King a notary Public in and
for the County and State aforesaid,

29.

and authorized by the laws of said
State to take depositions therein, do
certify that the foregoing depositions
of M. H. Wells, Craig Pennington, Rebecca
Orr, Mrs A Orr & J. B. Pennington were
taken, subscribed and sworn to be-
fore me at the time and place and
for the purpose in the Caption mentioned.

Witness my hand and official
seal
this the 9th day of August 1892.

J. H. King
Notary Public

Wm A Orr
vs } Depts
E. W. Pennington Adm - & others

Filed Aug 13th 1892

J. A. Hyatt

Relucy Orr
M. H. Wells
Craig Pennington
Wm A Orr
J. B. Pennington

Natary fee \$2.00
J. B. Pennington 1.00
\$3.00

The above paid by Plff.

J. A. Hyatt
N. P.

(1) The depositions of C. J. Duncan and others taken before me J. A. Ghyatt, a Commissioner in Chancery, for the Circuit Court for Lee County Virginia, at the law office of J. W. Orr, in town of Lee County Virginia, on the 3^d day of November 1892, pursuant to agreement of the parties, and which are intended to be read as evidence in behalf of the defendants, in a certain suit in Equity, pending in the Circuit Court for Lee County Virginia, wherein Wm. H. Orr is plaintiff, and E. W. Remington the Adm. of R. S. Orr. decd, and others are defendants.

Present, B. H. Sewell of counsel for defendants, and W. A. Orr Plaintiff and J. W. Orr of his counsel.

The witness C. J. Duncan, of lawful age, being duly sworn, deposes as follows:

Ques 1. Please state whether or ^{not} you were acquainted with Mr David M. Orr decd, in his life time, and if so, how long were you acquainted with him?

Answer. I knew David M. Orr in his life time I became acquainted with him in fall of the year 1865. but saw very little of him, until the year 1872. after that time, I was well and intimately acquainted with him.

Ques 2. Please take this deed from David M. Orr & wife to R. S. Orr, and state who wrote it, at whose request, and under what circumstances was it written. Said deed is dated on the 7th day of April 1883, file the same as part of your deposition.

Answer. This deed, which I here file with my deposition marked "R. S. O" was written by me, at the request of David M. Orr. The circumstances attending the writing of it are as follows. On one day in the early part of April 1883 and about the close of the term of the Circuit Court, Wm A Orr, the complainant in this case, came to me and asked me if I was going to the Miss Circuit Court, and upon being informed that I was, he informed me that his father D M. Orr wanted me to stop.

at his house and do some writing for him. he stated to me that his father was low in health, and, he, W^m A Orr, insisted that I stop on my way to this Court and not wait to do said writing on my return. I asked W^m A Orr if he knew what his father wanted written and he told ^{me} that he thought he wanted to make disposition of his property. I then asked him if he intended disposing of it by will or deed. he said. he was not certain but he thought by deed. And in obedience to this request I stopped at S. M. Orr's on my way to this Court, when Mr. Orr. requested me to prepare a deed conveying the farm on which he then resided, to his son R. S. Orr. and in accordance with said request I prepared said Deed. filed as above.

So much of this answer as states what W^m A Orr should have done or said is excepted to, because no proper foundation has been laid for such enquiry or statement, and because he is not a party to said transaction.

James W Orr, atty.
for Plff.

Ques. 3. You state that W^m A. Orr came
to you and intimated you that his
father wanted you to stop at his
house and do some writing for
him, please, state, at said time,
whether or not W^m A. Orr, made
any suggestion, or gave any direc-
tion as to how his ^{father} should
dispose of his property. State what
else was said in said conversation
if anything.

This quesⁿ is objected to for the same
reasons alone stated.

J. W. Orr, for Aff.
Answer. During the conversation between W^m A. Orr
and myself at the time he requested me
to stop at his father's to do said writing
He W^m A. Orr, ^{said} to me to say to his father, if his
father should say anything about it, to
dispose of his property as suited himself
and to not study anything about him.
(W^m A. Orr.) That is the only desire express-
ed by W^m A. Orr. so far as I recollect, the
conversation between him and myself was
short, and I have given the whole of it so
far as I remember, in my answer to this
and the preceding question.

(5)

Ques. 4. Where were you at when you prepared said deed, and who were present?

Answer. It was at the house of D. M. Orr in Graham Station Lee County Virginia. D. M. Orr, Rebecca Orr his wife and myself were present all the time. R. S. Orr was present a part of the time and J. B. Pennington came a very short time before I concluded said writing.

R. S. Orr was not at the house when I first got there, but came in a little while after I got there, he staid about the house and room in which I was writing for a little while, when his father D. M. Orr requested him to go and bring John B Pennington, which I suppose he did, as after a while he and the said Pennington came in together.

Ques 5. Please state whether or not, Mr David M. Orr signed ~~and~~ acknowledged said deed on that day ^{when} ~~that~~ you were there and prepared said ^{deed} in your presence.

Answer. He signed said deed in my presence and as I recollect it acknowledged before J B Pennington a Justice of said County at

The same⁺ time and in my presence
I see that the certificate of acknowledge-
ment including the date. is in my hand
writing.

Ques 6. Please state who gave the
directions ^{and instructions} as to how said deed
should be prepared. the manner
in which the property therein should
be conveyed, to whom, and
state whether or not said deed
was prepared in accordance
with said direction ^{instructions}.

Ans David M. Orr gave ^{the} instruction to me
as to how and to whom he desired said
property to be conveyed. And I prepared
said deed in accordance with his
instructions. I read it over to him and
his wife carefully and he then signed
it.

Ques 7. Please state whether or not Mr
David M. Orr, was rational
at the time of the execution ^{of said}
acknowledging said deed, and
whether or not he comprehended
his property, the manner in which

he was disposing of it; and the person to whom he was conveying it.

Answer I regarded him as perfectly rational he was weak in bodily health. but his mind seemed to be perfectly rational and composed, he seemed to comprehend fully his property as well as the manner in which he was disposing of it. and to whom he was conveying it.

+ Examined.

Do you or not remember seeing R. S. Orr in Jonesville at or near the time Wm A Orr spoke to you about staying at his father's?

Answer My recollection is that I saw R. S. Orr. here in Jonesville some time during the week in which W. A. Orr. asked me to go to his father's to do said writing.

The conversation of Mr Orr and myself was in the Court room here in Jonesville.

Does Do you remember being at D. M. Orr's after the day you wrote the deed?

Ans I do not. I was infrequently stoppage at David M Orr's

in passing to or from Wise Court
and I might have stopped there
on my return from Court on this
occasion, but I have no resolu-
tion of suing David M Orr any
more after writing said deed
And further This document with not
C. J. Sumner.

Virginia

Lee County Courts Office.

Novr 3rd 1892

Pursuant to an agreement
between the parties, the further
taking of depositions in
this cause is continued
until Saturday Novr 6th 1892.

J. A. Syatt Clerk

Court's Office

Novr. 5th 1892

Met pursuant to adjournment
present attorneys on both
sides - Wm L. L. Stout a
witness of lawful age being
duly sworn Says.

Quest. Please state whether or not

9

You were acquainted with Mr David M. Orr dead, in his lifetime, and if so, how long were you acquainted with him?

Ans. I became personally acquainted with said David M. Orr, in the year 1867, and have known him well since that time up to the time of his death, I reside about $\frac{1}{2}$ miles from where David M. Orr lived and died, I lived within that distance of his home, since the year 1871.

Ques 2 Please state whether or not during the time you were so acquainted with him, you saw and met him frequently,

Ans. I reckon I met him on an average once a week, I met him often.

Ques 3, Please state how long it was, and how often did you see and meet him just before his death.

Ans. I think I saw him on Sunday

before he died, ~~and I think~~
~~the Tuesday or Wednesday~~
~~following~~, I saw him
that night or the next
morning, I also remember
to have called to see him
some few days before he
died, I think on Tuesday,
Wednesday or Thursday
before he died, and he was
sitting by the fire;

Ques 4. Please state whether or not
at the times, you saw Mr
David M. Orr, just before his
death, he was rational,
and competent to transact
business?

This ques' is objected to because the
witness is only a casual observer
and not an expert.

J. M. Orr. for Peff.

Ans. He appeared to me to be ration-
al, at the times I saw him
just before his death, except
on the last time I saw him

and on said last time I saw him I did not have any talk with him. I would have taken him to be competent to transact business, ^{the time before} up to, the last time I saw him on Sunday morning before he died.

On the Tuesday, Wednesday or Thursday that I saw him, and talked with him, he was competent to transact business.

I never observed any difference in him, all the time I knew him up to and including the last time I talked with him, I saw he was failing in health but not in mind, he was nearly always complaining about something bothering him. The last time I saw him I stepped to the foot of the bed where he was lying and I nodded at him but did not speak, and he nodded back at me, but we did not talk any.

I don't know whether he recog-
nized me or not, some one
there informed me he was
not talking that morning.

Ques. 5, you state that you saw
Mr David M. Orr, ^{an average} on ^{an} once
a week before his death, please
state whether ^{or} not you ever
heard him ~~make~~ any of these
times, make any statement as
to the disposition of his ~~land~~,
and if so, what it was.

Ans. On a certain day I met
him out towards Green
Hill, when in a conversa-
tion with him, he stated
to me that he intended
or had concluded to give
his land to Simp. - and
let him pay his other
heirs, but did not state
how much - he stated
that his son Wm. A. was
of a rambling mind and
was not much for farming
and he ^{had concluded} ~~was~~ to give his

land to Simps, and had a few days before that, deeded it to him. on this occasion he was pottering along the fence, putting up some pieces of rail or stopping pig holes.

Exmd.

When did you see D. M. Orr last before the time on Tuesday, Wednesday or Thursday you speak of. and where was he?

Ans I believe I passed there one day and saw him either in the door or in the yard he was about the house.

Ques What was he doing on that occasion?

Ans I dont recollect of his doing any thing, I passed along and spoke to him I think it was a week before the time referred to, he was able to get out in the yard.

Ques⁴ on the occasion when you met him as you say, out towards Green Hill, how far was this from his house?

Ans. I reckon it was a
100 or 130 steps from the
house, at the corner of orchard
at the road

Ques. Who was present on that occasion?

Ans. No one except him & I.

Ques. When was this?

Ans. I think it was the latter
part of April before his
death.

Ques. You say when you saw him the
week before his death, he seemed
rational, Did you talk to him and
if so on what subjects?

Ans. We were just talking about
our families and I asked
him how he was.

Ques. Who was present on this occasion?

Ans. No one except Simp. was
in the room, but Becca
might have passed through.

Ques. Was O. M. Orr in bed or sitting up on
this occasion?

Ans. He was setting up by the fire
when I went in, he set up
a few minutes and then
laid down.

with claim
90 C

And further this witness saith not,
C. C. Stout

The foregoing depositions of C. J.
Duncan and C. C. Stout
were taken before me at the
times and places and for
the purpose mentioned in
the caption sworn to and
subscribed by the witnesses
in due form, Given under
my hand this 6th Nov. 1892.
J. A. Hyatt Comr

E. W. Huntington.
Admr. &c. et al.

ads $\frac{3}{2}$ Depo.
Dec 3

Mrs. A. Orr.

Filed Nov. 5th 1892.
J. A. S. Hyatt ©

C. J. Duncan
C. C. Stout.

\$2.50
with 90
\$3.40

This Deposition of Dr. M. B. Spenceen taken at the law office of Judge J. W. Orr on the 7th day of November 1892 before me J. A. Hyatt Clerk in Chcy for Lee Circuit Court pursuant to an agreement between the parties which when taken is to be read as evidence on behalf of the defendants in the Chancery Cause of W. A. Orr Plff. vs E. W. Pennington Answer et al -

Present Defts attorney and the Plff W. A. Orr and his attorney

Said M. B. Spenceen being duly sworn says -

Ques 1- Please state your residence and your occupation or profession.

Ans my residence is Jonesville Va and by occupation a Physician.

2 question. How long have you been practicing as a Physician.

Ans Something over thirteen years.

3 Are you a graduate of any Medical School.

Ans I am of the Ky School
of medicine Louisville Ky.

4th I am a physician who visits one time
a patient suffering with a slow lingering
disease, and who makes no further exam-
ination of him than to look at him, form
any correct conclusion, as to his disease
or as to how that disease will affect his
mind.

This question is objected to because
not correctly based upon the evidence
in the case. If intended to be based upon
Dr Statters evidence his depo shows that
he was well acquainted with D. M. Orr
& had observed his physical condition for
^{several years of practitioner for over 40 years}
several years.

Ans I do not think that a
Physician can make a
correct diagnosis or tell
the nature of any organic
disease from optical ob-
servation alone, in order
to know what effect a
disease will have upon the
mind, it is necessary to
know the disease and
to what extent, the named
disease what ever it may

be, will effect the mind, as
all diseases do not effect the
mind alike

5 Suppose a Physician visits a patient
one time, does not carefully diagnose
his case, only judges from his ^{appearance} ~~general~~
al^x that he was much wasted away, and
thinks that his liver was the principal
trouble, and his lungs and kidneys might
also have been involved. Can said Physician
from such an examination tell with
any certainty, the state of that patient's
mind 16 days before?

This quesⁿ is objected to also because not
based on the evidence, The enquiry is as
to a physician, & not as to one of 40 years
experience & practice, and with a patient he
had observed & had been well acquainted
with for a considerable length of time.

J. W. Orr, for Opp.
If a Physician visits a patient but
one time and does not make
a careful examination or
diagnosis of his case though he
be suffering from any organic
disease - I do not think he could
tell the state of the patient's mind
as it was sixteen days before. As all
diseases both chronic and acute are
liable to change.

+ Examined

Thues

Did you see D. M. Orr during his last illness?

Sus

I did not.

Thues.

Can you or not tell that a man is ^{much diseased} very ~~weak~~ and very weak physically, by optical observation?

By optical observation I think I can tell or a physician may tell whether or not a man or patient is diseased to great extent or very much exhausted as the physiognomy ^{and general appearance of a patient} is one index to making up a diagnosis.

Thues

Are there not diseases of the liver that effect the mind and produce dullness of the intellect, and nervousness and, at times, despondency?

This question and any answer to it, is objected to because, it is not shown by Dr Stallord that David M. Orr. had such disease of the liver as would or did effect his mind or produce dullness of the intellect, nervousness, or despondency. in fact the said Stallord did not make such an examination, as entitles him to say that Dr M. Orr had disease of the liver at all.

Duncan & Swell
for. Dfts.

Ans-

There are some diseases of the liver that produce dullness of the intellect. nervousness and especially despondency.

Ques Is it or not a fact that there are diseases of the liver that often produce not only dullness of intellect, but that also produce weakness or want of will power.

This question and every answer thereto is objected to. Because no hypothesis has been proved upon which to base it.

Democrat & Levee
at 40 for 5 fls.

Ans-

Yes There are diseases of the liver ^{that produce} all of these effects

And further this witness saith not. W.B. Spencer M.D.

Virginia, Lee County to wit: -

I, J. Alsbyatt Comr. in Chg of Lee County Circuit Court, do hereby certify that the foregoing depositions was taken before me and sworn to by the witnesses at the time & place & for the purpose mentioned in the Caption Given and my hand this 4th day of 7th 1892 J. Alsbyatt

E. W. Huntington
advs ⁴/₁₀₀ Depo.
Wm. A. Orr

Filed Nov. 7th 1842
J. Alsbyatt

For M. B. Spencer

2.00

The deposition of James W Orr +
Wm A Baker Taken at the law
office of said Orr, by agreement of
parties, to be read as evidence in a
certain suit in chancery now pend-
ing in the Circuit Court of Lee County Va.
in which Wm A Orr is plaintiff and
E. W. Pennington + others are defendants,
November 7th 1892.

The said James W Orr a witness of law-
ful age and being first duly sworn
deposes + says.

1. Question by Plff. Did or not-
you visit your brother D. W. Orr
during his last illness and if
so when was it, how often
and how long did you re-
main with him?

Ans

I did visit him about two weeks before his
death, and remained with him on that occasion
two or three days, think I spent two nights.
I then returned home and went back to see
him a day or two before his death and remain-
ed with him until his death.

29

What was his physical condition
when you so saw him?

Ans

This question is objected to because it is
irrelevant in chief, and not material, because

subo to obtain an opinion, and because
irrelevant and immaterial

Duncan & Swells for
Lyfts.

Ans He was very weak, and was confined to
his bed, my recollection is he had to be
raised up in the bed to take a sip of water,
and to be assisted when coughing in getting
rid of his expectorations.

39- I am you read the deposition of C.
C. Stout filed in this case and
taken on the 6th inst.?

Ans I have.

49- From what you saw of D. M. Orr during
the visits you name do you or not
think that D. M. Orr was able to sit
up by the fire on the Tuesday, Wednesd-
ay or Thursday before the death of
said D. M. Orr as stated by C. C. Stout
in his deposition?

This question and any answer
to it, is objected to because it seeks
for an opinion from the witness, &
2^d. Because it assumes that the wit-
ness, Stout stated facts, in his deposition
which ~~was~~ he did not state

Duncan & Swells for
Lyfts.

Ans I do not think he was able at that time to sit by the fire. I do not remember seeing him sit up at any time while I was there.

Q Was D. M. Orr able to get out of his bed and walk about the house, and stand in his door or go into his yard at any time before the Tuesday, Wednesday or Thursday mentioned by said C. C. Stout, and are you or not acquainted with said house and premises? objected to because the question seeks an opinion.

Duncan & Swell for Deft.

Ans The time referred to is about or after the time of my first trip there above spoken of, and from D. M. Orr's condition when I went there and while there, I have no idea he could have walked to his door or ^{during the time referred to,} out into his yard. I am well acquainted with the house and premises.

Q How far is it from his house to the road at the corner of the orchard the way a man could walk to get there?

Ans I think about 200 yards.

Q So you think that D. M. Orr was able to walk from his house

to the road at the corner of his orchard and put up pieces of rails and stop pig holes during the month of April just before his death, and especially during the ^{latter} ~~last~~ ^{part} ~~days~~ of April next before his death as stated by C. C. Stout.

Objected to because it asks for an opinion from the witness. 2nd Because it is an indirect effort to contradict the witness Stout, by getting an opinion, and Thirdly because the Plaintiff himself suggests that an objection be filed to the question

Dunsmuir & Swill
for Defts

Ans

I do not think he was able to have done so at the time of my first visit, or afterwards, nor do I think, from his physical condition at the time of my first visit, that he was able to have walked that distance at any time during the month of April preceeding his death, and especially during the latter part of that month, and he was in my opinion unable if he had been there ^{at that time} to have put up pieces of rails and stoped pig holes.

X E x a m i n e d.

1 question Please state what day of the month it was when you visited D M. Orr.

Ans I do not remember the day of the month, but think it was probably about the 23rd or 24th of April.

2 question. Did D M. Orr eat of any while you were there about the 23rd or 24th of April?

Ans If he did I do not remember it.

And further this deponent saith not.
James W Orr.

Wm A Baker another witness of lawful age and being duly sworn deposes & says.

Ques What is your profession and how long have you been engaged in that profession?

Ans A practising Physician and have been engaged about Eighteen months in actual practice.

Ques Is it or not a fact that many chronic diseases effect the mind, and weaken it, and is not this the case with diseases of the liver?

Objected to because, testimony in chief, because immaterial, and because it is not shown that this witness has any personal acquaintance with D M Orr or his condition for the 30 or 40 days preceding his death and because no proof has been offered that affords a reasonable basis for the opinion here stated.
D + O for Depts.

Q. Ans. Yes many diseases effect the mind.

Ques He may have toxic symptoms from chronic diseases of the liver, in fact very often do. Can or not a physician, of 40 years practice, by looking at a patient, with whom he has been intimately acquainted for several years, and who is very much wasted away with disease and who he is satisfied can not live many days, tell what his disease is and the effect of the disease upon the patients mind?

Objected to because immaterial and irrelevant, because it asks one Physician what kind of an opinion another will form on a given state of facts. and third it seeks an opinion in reference to the opinion that another Physician of 40 years practice will form without giving to the witness any information as to the ability of the 40 years practitioner.

J. S. S. S.

for Dyke.

Ans He might make a correct diagnosis.

Ques If a man much wasted away by disease and in a helpless condition mumbles or talks to himself, when his attention is not called, what would you think his mental

condition was, provided the person was not in the habit of so doing when in health.

Objected to because evidence in chief and because no sufficient foundation has been laid for such a question.

Q & A for Dyke

Ans I would think he had some cerebral symptoms - bordering on delirium.

Ques Are you a graduate of a medical school or institution and if so what?

Ans I am a graduate of the Louisville Med. School.

X Examined.

1 question. How long have you been practicing medicine.

Ans. Eighteen months.

2 question Were you acquainted with Dr Orr in his life time.

Ans Yes, met him only once though several years ago.

3 Do you know what disease caused his death.

Ans Do not.

4 Can a Physician who visits a patient only one time, that is suffering from a slow lingering disease and who makes no further examination of him there to look at him, form a correct conclusion as

to the disease of that patient or as to how that disease will affect himself.

Ans. Owing to the disease & the capacity of the Physician & whether he did make a correct diagnosis - it might be possible.

- 5 Suppose a Physician visits a patient only one time, does not carefully diagnose his case only judges from the general appearance of his patient, who he sees was much emaciated or wasted away and thinks from that examination that the patient's liver is the principal trouble and that his lungs and kidneys may also be affected, Can said Physician from such an examination tell with any certainty the state of that patient's mind 16 days before he visited him.

Ans I think not.

- 6 Suppose you were to visit a patient, and find him weak and feeble, with a severe cough, and expectorating largely and the expectoration showing corruption and some blood. What would be your opinion without further examination was his disease. This ques & any answer thereto is objected to because not cross examination but in chief, and not based upon the evidence in the cause.
- Err. for Off

ans.

Tuberculosis of lung or lungs

And further this deponent saith not,
W. A. Baker

The foregoing depositions of James W. Orr
+ W. A. Baker were taken, subscribed &
sworn to before me at the time and
place and for the purposes in the capi-
tion mentioned. Given under my hand
November 7th 1892.

J. H. Hyatt Comr.

Wm A Orr
vs 3 Lobo
C. W. Pennington, Jr.

Filed Nov. 7th 1892
J. A. Syatt

James W Orr,
Ex Wm A Baker

\$2.00

The depositions of W. R. Geary, S. C. Stallard,
A. J. Lucas, Richard Barron and Mattie Musick
taken at Green Hill Church in the County of Lee
and State of Virginia on the 1st day of July 1892,
between the hours of 8 o'clock A.M. & 6 o'clock
P.M., of that day, pursuant to notice, and
which are intended to be read as evidence
on behalf of plaintiff, in a certain suit in
Chancery pending in the Circuit Court of said
County in which Wm A Orr is plaintiff and
E. W. Pennington & others of R. S. Orr & others
are defendants.

Present. - Plaintiff and James W Orr of his Counsel.
and defendant E. W. Pennington & B. Z. Sewell
- atty for Defts.

The said W. R. Geary a witness of lawful age
and being first duly sworn deposes & says.

Quies by Plff.

What is your age and where do you reside?

Ans

I am 59 years of age and live in
spokinstation about one mile from
the D M Orr farm

Quies.

Were you acquainted with D. M. Orr & how
long did you know him?

Ans

I was acquainted ^{with} him very well during
and after the war.

Quies

Were you a Justice of the Peace in this County

in April 1883, and did you or not together with J. B. Pennington attempt to take the acknowledgment of Rebecca Orr wife of D. M. Orr to a deed to R. S. Orr, the deed in question in this suit,

This ques. and its answer is objected to because the acknowledgment of Rebecca Orr is not involved in this case.

E. W. Pennington

Ans

I was a justice of the peace at that time, and did with J. B. Pennington attempt to take the acknowledgment of Rebecca Orr, to the said deed.

Ques

Did you or said Pennington attempt to take the acknowledgment of D. M. Orr to said deed on the same day, and if so when was it and where was it and who was present?

Ans

I did not, but J. B. Pennington informed ^{me} on that day that he did take his acknowledgment that morning before I arrived and I saw his name was signed to the certificate. I do not now remember the

date, but I suppose the date of my certificate April 20th 1883 is correct, in D M Orr's house, R. S. Orr, Mattie Tharp (now musick) and some colored man were about the house but I do not remember that they were in the room at the time of her acknowledgement.

~~That~~ This answer is objected to because irrelevant & immaterial, especially that part which states what information witnesses had rec'd. from J. H. Pennington because it was hearsay.

E. H. Pennington

Ques. Was C. F. Dimcan present?

Ans he was not while I was there

Ques. Who came after you on that occasion?

Ans my recollection is that R. S. Orr came after me,

Ques Did you or not observe the physical, ^{+ mental} condition of D. M. Orr on that day, and if so what was it?

Ans I did, he was in bed and was in a very weak condition, I talked with him some he did not talk much and was very weak, I thought his mind was somewhat enfeebled at that time from the fact. That on said

day while his wife was waiting upon him in a very kind manner. he spoke to her in a very harsh and insolting manner.

Ques

From your observation of his condition was he or not competent to transact important business, or to make a contract or execute a deed?

~~Ans~~ This question is objected to because the witness should state what came to his observations as to D.M. Orr's mental condition & not his opinions on

C.W. Huntington

~~Ans~~

I thought not.

Ques

What was Rebecca Orr's appearance at the time you attempted to take her acknowledgment, Did she appear to act willingly or not?

This question is objected to because the certificate made by witness is a matter of record & the witness can not be permitted to deny what he has certified to, & because immaterial

Huntington

Ans

She seemed to be very much troubled at the time, and made the impression on my mind that she was not acting willingly,

Ques.

Where did Wm A Orr reside at that time and what was his profession and how long had he been engaged in his profession and lived where he then resided?

Ans

He was a lawyer at that time and I believe lived at Jonesville in this County, and had been an attorney for some time

Ques

Did you learn of any particular or special reason why D. M. Orr undertook to deed his land to his son R. S. Orr?

Ans

I did not.

Ques

Was the undertaking one month before the death of D. M. Orr to support & take care of him & pay \$325 - equal to the value of his half of the land, or was it ^{or not} a grossly inadequate consideration for the conveyance of said land?

This ques. is objected to because leading & asking opinions of

witnesses, & not to state the facts.

Of Law, as to what is ~~also~~ is a conclusion ~~of Law~~ ^{it was} ~~of Law~~ ^{as to what is}

Ans

I think ^{it was} not equal to his half of the land and that it was an inadequate consideration.

Ans used of separate & accurate statement.

Ques Who wrote the Certificate to the deed?

This question is objected to because the Certificate is the best evidence & is verity and speaks for itself.

M. T. Sewell atty,
for depts.

Ans I do not know but I think they and the deed were in C. T. Duncan's handwriting and I am well acquainted with his handwriting.

Ques. What do you consider D. M. Orr's half of the farm was worth in April 1883?

This question is objected to because it is immaterial, it does not matter what any other person than D. M. Orr himself considered what was a proper consideration for said half of said land.

M. T. Sewell atty,
for depts.

Ans It was worth from thirty to thirtyfive hundred dollars. I was and had been for sometime well acquainted with said ^{land} &

Ques.

When did you first inform Mrs. Orr what you knew about this matter?

Ans

Sometime during the summer of 1891.

X Examined.

Now you say of your own knowledge that D. M. Orr's acknowledgment to said deed was not taken on April 7th 1883?

Ans.

I can't

Ques. 2. You say you talked at the time you took Mrs. Orr's acknowledgment to D. M. Orr but little. How was his conversation with you, was it sensible, or not?

Ans. It seemed to be sensible. He only asked and answered questions, as talking would bring about coughing.

Ques. 3. When you went there that day did he recognize you?

Ans

he did

Ques. 4. Is it an unusual thing for a person ill & sick to be cross, peevish & sometimes to use insulting language?

Ans. I do not think it is, at times with some people.

Ques. 5. Why did you think
Mr. Orr incompetent to transact
business on that day? Has not
your opinion made up from
his physical weakness and the
remark made to his wife?

Ans. It was

Ques. 6th. Were you at S. M.
Orr's house on April, 7th 1883?
The time the Certificate ^{of acknowledgment of} of Mr.
Orr bears date?

Ans.

I was not,

Ques. 7th On the day you
took Mrs. Rebecca Orr ac-
knowledgement, do you not
think Mr Orr had mind suf-
ficient to comprehend his
and the manner in which it had been arranged.
properly, and the objects ^{purpose} of to
~~his daughter~~ to whom conveyed?

Ans. I think so.

And further this deponent saith not.

W. R. Yeary

Ans.

I can not say certainly but from the nature of his disease I do not think there could have been much difference, his disease was of a slow nature.

Ques.

From your knowledge of his disease and his physical & mental condition ~~and~~ do you think he was competent to transact important business, or make a contract ^{on that day or} three days before that time or 16 days before the day you saw him?

This question is objected to: Because

1st It is leading, and asks for an opinion. 2nd Because it is asking ^{to be proved} ~~what~~ ^{which} on facts, not proved. & 3rd Argumentative.

B. H. Sewell atty
for D. A.

Ans.

I do not think he was on the day that I visited him which was the 23rd day of April 1883. and I do not think ~~he was~~ there could have been much difference on the other days referred to. I had observed his con-^{on the road}dition in meeting him, for some time previous to my visit to him and thought he was in a bad fit.

Dr S. C. Stallard another witness of lawful age and being first duly sworn deposes and says.

Ques.
Ans

What is your age, residence and profession?
69 years I live in Yokum station. I am a physician and have been practicing regularly for over 40 years. I have lived where I now reside and practised my profession since about 1854 except about 2 years of the time spent in Bristol Tenn and in Jonesville in this county.

Ques.

How far is your residence from the D. M. Orr farm?

Ans

a little over 2 miles.

Ques

Were you or not intimately acquainted with D. M. Orr, and if so for how many years, and how long did he live within the above distance of you?

Ans

I knew him very well and have known him ever since he moved to the place where he died, and during that time lived the distance above named from him.

Ques.

Were you his physician in his last illness?

Ans I visited him once. on the 28th day of April 1883.

Ques. Are there or not diseases likely to produce a dullness or confusion of intellect under which dispassing memory and will power are lost?

The above question is objected to, Because, leading, irrelevant, and immaterial, - -

B.H. Sewell atty for
Dft^s,

Ans I think there are, I think a diseased liver, lungs and kidneys produce that effect.

Ques. Was D. M. Orr afflicted with one or more of said diseases?

Ans I did not take a close diagnosis of his disease, and only judged from his general appearance he was very much wasted away and was fully satisfied he could not live many days. I thought his liver was the principal trouble, and that his lungs might have been involved and also his kidneys.

Ques Did you or not observe that the diseases with which he was suffering had produced

upon him
the effect usually produced upon the human
system & intellect by such diseases?

This question is objected to because
it is leading, irrelevant, and
immaterial, and because it is
assuming things to be proved
which are not proved. The
witness does not undertake to state
with what disease the said Orr was
afflicted with, or how he was affected.

B. H. Sewell atty.
for Dft.

Ans. I did, and I think his mind was in a
bad condition.

Ques. From his condition on that day what must
have been his condition April 7th 1883
and April 20th 1883.

This question is objected to,
Because, leading, and 2^d Because it is
asking for an opinion, instead of a
fact. The witness does not undertake to
say what the condition of said Orr was on said
dates. 3^d Because the question is argumentative

B. H. Sewell
att'y for Dft.

Ques. From your knowledge of his Condition as detailed by you, do you or not think that he could have been easily influenced, by threats or persuasion, from one in a favorable situation to exert such influence for a month or more before his death?

This question is objected to. Because,
1st Leading, irrelevant & immaterial.
2^d Because it is asking for an opinion instead of facts, & this witness could not be an expert witness in such case,

B H Jewell. atty
for Dfs,

Ans. I think he could. more than one in a healthy Condition.

Ques. When did you inform Wm A Orr what you knew or would state about this matter?

Ans. I do not now remember, but suppose it was less than a year ago.

X examined

Ques. 1. How came you to inform plaintiff of what you knew?

Ans. at his request

Ques. 2. Do you know the mental and physical condition of D.M. Orr on April 7th & 20th 1883.

Ans. I can not tell the precise condition

Ques. 3. ~~How~~ Were you to see D.M. Orr on April 7th & 20th 1883?

Ans. I was not. I only saw him on the 28th

Ques. 4. I hear if you did not see Mr. Orr. on April 7 & 20th 1883. how can you say you can not tell precisely his condition mentally & physically?

Ans. from his general appearance on the day that I visited him.

Ques. 5. At the time you visited him, did Mr. Orr recognize you & did you converse with him any?

Ans. He knew me. but I talked but little with him

Ques. 6. In his conversation,

did he appear rational?

Ans-

if he said anything that was abnormal I did not notice it.

Ques. 7. Then upon what do you base your opinion that Mr. Orr. was mentally deranged at the time you were there.

and

His great prostration and sinking conditions.

Ques. 8. Did you make an examination full enough to tell what was his precise disease and the extent of that disease.

Ans. I did not. critically examine him more than look at him

Ques. 8. Is it not a fact that persons affected with lung kidney and liver diseases so much as to confuse the mind, that with such persons at times there are intervals in which the mind is not oppressed or confused.

Ans

There ^{are} intervals that the mind is not so much confused as at others, but as long as affected the mind can not be entirely normal.

Ques. 9th Is ^{this} ~~it~~ not your opinion:
that every person affected with
any disease, such disease affects
the mind in proportion to the
violence of the disease.

Ans. If the disease affects the general system it does,

Ques. 10th. Were you acquainted
with the Temperament and Dis-
position of D. M. Orr. If so,
what was it?

Ans

I could not say extensively; he appeared to be
a man of but few words and talked
but little, and so appeared before his sickness.

Ques. 11 Has he not, always
by those who knew him, con-
sidered to be a man of consid-
erable determination and self
will power.

Ans

I can not say.

and further this deponent saith not

S. C. Hallard
+1

witness fee 50 cts
paid

A. J. Lucas another witness of lawful age and being first duly sworn deposes & says.
Ques. What is your age & where do you live?

Ans.

I am about 40 years of age, and live in the neighborhood in which D. M. Orr lived at the time of his death and for some time before his death I lived in the same neighborhood.

Ques. Were you acquainted with D. M. Orr & if so for how long before his death?

Ans.

I was acquainted with him ever since he lived in the neighborhood but better acquainted with him ever since the war.

Ques. Did you ever have a conversation with him in regard to persons making a difference between their children in disposing of their property, and if so when & where was it and what was said?

This question and any answer to it is objected to. Because, 1st It is leading, irrelevant & immaterial.

B. H. Russell atty for deft.

Ans.

I did have a conversation with him in regard to the manner in ^{which} Samuel Trill had deeded his lands to his children, and he said he never expected to make that difference between his children. I do not

remember when this was nor how long before
his death he was unwell at that time I am
under the impression that it was in the fall
before his death. he had some hands sawing
some wood at the time near the road.
And further this witness saith not.

Wit's & Paid

A J Green

Richard Barron another witness of lawful
age and being duly sworn deposes & says:

Ques. Did you or not have a conversation with
D. M. Orr. in regard to his giving his land to
R. S. Orr, and if so when & where was it
and what was said?

Ans.

I was living on D M Orr's land at the
time of his death. He had told me that I
should have a place to stay as long as he had
any land. awhile before his death probably
two or three weeks. he told me one day while
he was sick in bed and seemed to be in
trouble that he had no land any longer
that he had given his land to Simp. that
Simp had Ding Donged and bothered
him untill he had given it to him. that

he supposed that there would be no trouble over it and that it would make Simp a good home. he also said that he did not want to do so but in his condition he was obliged to do so. I also heard Simp say before this time that it was not worth his while to be at work cleaning up the farm and if his Father did not give him the land that he would go off and stay. This I think was about bush cutting time in July or August before D. M. Orr's death.

I had been living on D M Orr's farm for about 12 years and working for him.

Ques

What personal property did D. M. Orr own at the time of his death?

Ans

He had one horse one yoke of oxen 2 cows 6 or 7 head of sheep some corn some wheat a little some bacon some farming tools and household and kitchen furniture.

x-examined, -

Ques, 1. Who was present when D. M. Orr had the above conversation with you? and where were you at, at the time of said conversation.

Ans

no one was present, ^{it was} in his room and they was all gone out to dinner.

Ques, 2. Had R.S. Orr been working for his father previous to his death and keeping the farm cleaned up,

Ans. He had been working on the place but it was in bad fix

Ques 3. Who was present at the time R.S. Orr said it was not worth his while to be working cleaning up the farm, and where were you at when he said this?

Ans. no one was present he and I were at work on the farm.

Ques, 4th. Were you present at the time Judge C.J. Duncan came to Mr D.M. Orr's, and who all were there at that time.

Ans. I was at the wood pile cutting wood and saw judge Duncan come there. John B. Pennington was there & think W.R. Gearry was there that day. Mattie Thorpe was staying there and was there that day.

Ques 5th. How long did you work for D.M. Orr & how long did you work for R.S. Orr?

Ans

I worked for D M Orr about ^{10 or} 12 years
and for Dimp about 5 or 6 years,
I stayed on the place while they both
owned it 13 years.

Mrs 6th

How old are you?

Ans

I was brought from Richmond when a
small boy and do not know my age
but I suppose I am about 36 years old,

Mrs 7th

Where have you been living since the
death of A. S. Orr?

Ans

I have lived in Yokum station on the
lands of C. C. Stout and J. P. Orr.

Mrs 8th

Was there another Colored man
who ~~lived~~ ^{lived} ~~on~~ ^{on} D M. Orr's land at
the time you did and if so what was
his name?

Ans

There was not.

with 50¢ paid

and further this deponent saith not.

Richard X Barron
his
mark

Mrs Mattie Music another witness of
lawful age and being first duly sworn
deposes & says.

Ques

What is your age & where do you live and
how long have you lived in the neighbor-
hood where you now reside?

Ans

I will be thirty three next Nov^r and have lived in this neighborhood ^{Yokombetion} nearly all my life.

Ques Did you ever live at D. M. Orr's on the farm on which he died, and if so when was it, and how long did you live there?

Ans

I went there on Monday morning just 4 weeks before his death on Monday morning. I had lived there a while about 2 years before this.

Ques State if you heard anything said by D. M. Orr & his wife and R. S. Orr or either one of them, about the deed in Controversy from D. M. Orr & wife to R. S. Orr, and if you heard anything said about it what it was, when it was and who said it?

This question is repeated to in so far as anything the wife of D. M. Orr may have said. & Because husband & wife cannot testify ^{for or against each other, nor can their relatives be used for against each other.} But I will answer.

Ans

I don't know that I ever heard D. M. Orr say anything about it. I heard Rebecca Orr wife of D. M. Orr say that she did not want to make the deed to R. S. Orr. I don't remember whether this was on the day that

her acknowledgement was taken or shortly afterwards. I never heard R S Orr say anything about it

Ques

Were you there on the day the acknowledgment of D. M. Orr & wife, ^{to said deed} was attempted to be taken, and if so who took the acknowledgments, and when was it, and who was there?

This question is objected to in so far as it asks who took the acknowledgments to said ^{& the time when taken} deed. The certificates are the best evidence & verify ^{themselves} for themselves.

R. H. Sewall atty for off

Ans

I was there on that day. W R Gearry and J B Pennington took the acknowledgments. I think it was on Tuesday, about a week or two after I went there. On that morning after W R Gearry came R S Orr sent Tennessee Thompson after J B Pennington. There was no one there except the 2 justices Tennessee Thompson myself and the family.

Ques.

Was C. T. Duncan there?

Ans

He was not there that day

Ques

Did D. M. Orr acknowledge the deed on the day his wife did?

This question is objected to because the certificates are the best evidence and verify and speak for themselves. They cannot be contradicted by ^{oral testimony}.

R. H. Sewall atty for off

Ans

It was my understanding that he did.
Though I do not know.

Ques

What was D. M. Orr's state of health at the time you last went there to live, and how long did he live after you went there?

Ans

His health was very bad. he was mostly confined to his bed after I went there. and I don't think he went to the table to eat but once after I went there. and that was on the day judge Duncan was there. on his return from Wise county and his wife led him to the table on that day. I have stated how long he lived after I went there.

Ques

Who of D. M. Orr's children lived with him at this time and where did the others reside?

Ans

none but R & S Orr lived with D M Orr at that time I understood the girls lived in Tenn and W A Orr at Jonesville.

Ques

Was Wm A Orr there at the time of his father's death, and how long did he remain with him before his death?

Ans

He was, and I think had been for several days

Ques. Did he or not wait on his father during that time and up to the time of his death in a kind and affectionate manner?

Objected to because leading
B. H. Swell

Ans. He did so far as I know and seemed to be the principal one in waiting upon him when he became helpless, R. S. Orr very often being absent.

Ques. Was it or not evident to your mind when you went there that he could not live long?

This question is objected to, because witnesses can ^{not} state opinions. Must state facts.
B. H. Swell

Ans. I was satisfied that he could not live but a short time.

Ques. What personal property did he own at the time he died?

Ans. One horse 2 cows 1 yoke of oxen the oxen probably was sold before he died. Some corn and bacon

Ques. Did or not R. S. Orr seem to exercise a controlling influence over his father and mother, and if so in what way?
Objected to because facts should be stated for & not opinions
B. H. Swell

Ans

He seemed to be kind to his parents but
seemed ^{to want} to have things his own way

X Examined

Ques. 1. While you were
there or at any other time
did you ever hear R. S. Orr
threaten to leave if so & so
were not done for him by
his father

Ans. I did not ever hear him threaten to leave,

Ques. 2. What did you think?

Mr. S. M. Orr rational
at the time you went there
the last time.

Ans

I suppose he was he talked sensible.
and was so up to the time that J B Rivington
and W R Geary was there, so far as I know,

Ques. 3. Were you at Mr. Orrs on the
day the deed was written by
C. F. Duncan?

Ans. I was not,

Ques. 4. Did not R. S. Orr help to wait
on his father and giving ^{him} every atten-
tion he could?

Ans He did so far as I know,

Ques. 5- Did not Rebecca Orr
live with R. S. Orr up to the
time of his death,?

Ans She made his house her home when
she was here, she was in Tenn part of
her time.

Re examined

Thes. Did R. S. Orr stay in the room with
his sick father or was he absent
from said room frequently, or have
was that; but I suppose ^{was} on the Farm

Ans He was not there much in daytime, at
night he would stay in the sick room a
short time then would leave and go to bed,
I heard his mother complain to him one
night when he was in another room
with some boys who had a fiddle about
not being in the room with his father.
from the time I went there he seemed to
require constant attention.

The complaints stated by the wit-
ness by Mrs. Orr is objected to as hearsay - & inadmissible

And further this is founded on the
test of B. B. Sumner
Mattie ^{for} J. Mubick
mark

Virginia, Lee County, to wit: -

I H. B. Cox a Justice of the Peace in and for the County and State aforesaid, do certify that the foregoing depositions of W. R. Geary, S. C. Stallard, A. J. Lucas, Richard Barron & Mattie J. Music were taken subscribed and sworn to before me at the time and place and for the purposes in the Caption mentioned, Given under my hand July 1st 1892.

H. B. Cox J. P.

I certify that I have been engaged 9 hours in taking the foregoing depositions, for which, I have this day received of W. A. Orr the sum of Six dollars and Seventy-five cents, being the lawful fee,

This July 1st 1892.

H. B. Cox J. P.

Wm A Orr

Deposits

C. W. Cunningham et al

Received sealed and

Filed July 4th 1892.

J. A. S. Hyatt Clerk

by J. R. Gibson D.C.

S. C. Stallard .50

W. R. Geary.

Richard Barron .50

A. J. Lucas .50

Mattie Music .50

J. P.

R

(1)

D. M. Orr. Partition
1.

Rebecca Orr

vs

Plff

vs Chcy

E. W. Pennington Adm et al. Dft

To his Honor, the Circuit Court of Lee Co. Va
Pursuant to an order, adjudged in the above cause,
We the undersigned Commissioners D. M. Carnical
J. C. Hobbs & C. V. Lutton after being duly sworn for
the purpose set forth in said decree, have made par-
tition of the Lands of D. M. Orr dec'd. according to
the following Report & Plat. We found the lands to con-
tain 218 acres. With due regard to value, quantity, quality
& convenience We have laid off and assigned to the
Plff. Rebecca Orr Lot No 1 which we regard equal
in value to one half of the entire tract. Said Lot No 1
contains 87 acres and includes the mansions house
with its accompanying out-houses and is bounded
as follows to wit. - BEGINNING at (A) on Plat,
a maple & double lyeum on the south bank of Pow-
ells river thence S 36 $\frac{1}{2}$ E 152 poles to (B) a stake
in public road thence S 81 E 11 $\frac{1}{2}$ poles to a sloped
new barn or stable (Said stake is to be the East-
ern terminus of a line from (D) a black-walnut, the
course and distance of said line being N 85 E 2 poles
& 9 links) thence with said line S 85 W 2 poles
& 9 links to said walnut S 31 E 6 poles N 85 E 2 pole
& 9 links S 31 E 120 poles to (C) a stake - (Said stake is
to be established 6 poles & 20 links surface measure
from two lyeums nearly on top of a spur & bearing from

(2)

said Lynns S 68 W -) thence from said stake
with said line N 68 E 6 poles & 20 links,
surface measured, to (H) said two Lynns, nearly
on top of said spur, but probably 3 feet East
of the principal top, thence S 37 E 18 $\frac{3}{4}$ poles
to a stake (I) on the S. E. line of original tract
thence with the same, it also being John Orr's
line, N 1 $\frac{1}{2}$ W 99 poles to a stake on top of a spur
thence Continuing with original & said John Orr
lines N 35 $\frac{1}{4}$ W 114 poles to (K) a sugar tree (now gone)
N 19 $\frac{1}{2}$ W 52 poles to (L) a bush (now a rock) on the
south bank of Powell's river. thence down
said river as it meanders N 89 $\frac{1}{4}$ W 10 poles
N 75 $\frac{3}{4}$ W 10 poles N 74 $\frac{1}{10}$ W 38, $\frac{65}{100}$ poles S 81 $\frac{3}{4}$ W 33 poles to
(A) the beginning

We have laid off and assigned to Purdie Orr & R. S.
Orr Jr. Heirs of R. S. Orr Sr. deed Lot No. 2
which we regard equal in value to one half the
entire tract and bounded as follows to wit
Beginning at (A) a maple & double lynn on the
South bank of Powell's river. Corner to Lot
No. 1, thence with line of same S 36 $\frac{1}{4}$ E 10 $\frac{1}{2}$
poles to (B) a stake in public road S 31 E 11 $\frac{1}{4}$
poles to a stake near a barn or stable (said
stake is to be the Eastern terminus of a line
from (D) a black walnut) the course &

(3)

S. M. Orr Partition

distance of said line, being N 85° E 2 poles & 9 links) thence with said line S 85° W 2 poles & 9 links to said Walnut - S 31° E 6 poles N 85° E 2 poles & 9 links S 31° E 120 poles to (G) a stake (said stake is established or situated 6 poles & 20 links, surface measure, from two Lynns nearly on top of a spur - and bearing from said Lynns S 68° W -) Thence from said stake with said line N 68° E 6 poles & 20 links, surface measure, to (H) said two Lynns nearly on top of said spur - but probably 3 feet East of the principal top thence S 37° E $18\frac{3}{4}$ poles to (I) a stake on the original S. E. line thence with said line bearing lines of Lot No 1. S $1\frac{1}{2}$ ° E 58 poles to (J) a stake on line of the other lands of said P. & R. S. Orr & with lines of same N 10° W 15 poles to (2) a stake in a sink N $43\frac{1}{2}$ ° W $54\frac{1}{2}$ poles (3) N 46° W 11 poles (4) N 69° W $31\frac{3}{4}$ poles (5) N $73\frac{3}{4}$ ° W $20\frac{1}{2}$ poles (6) to stake thence leaving said lands & with lines of Ell Wells or formerly John Bennington N $43\frac{1}{2}$ ° W 37 poles to a small black Walnut N $52\frac{1}{4}$ ° W $10\frac{4}{10}$ poles to a red elm N $61\frac{1}{2}$ ° E $46\frac{1}{4}$ poles to a stake in a branch a little North of wagon or public road thence with Marion land N 20° W $84\frac{1}{3}$ poles to (10) a stake on the south bank of Powell's river thence up said river as it meanders N 25° E $16\frac{1}{2}$ poles N $16\frac{1}{2}$ ° W $8\frac{1}{3}$ poles

(A)

N 20 E 2 1/4 poles N 19 20 W 20 poles N 10 20 E 37 1/2 poles
N 8 13/4 E 11 1/2 poles to (A) the beginning -
Containing 131 Acres. This assignment
also includes a right of way through such parts
of Lot No 1 as will be necessary to haul wood
from the S. E. Corner of said Lot No 2 to such
part of said Lot No 2 as will be readily ac-
cessible from the other parts thereof

Out of Lot No. 2 we have laid off and assigned
to Rebecca Qor, for her dower interest as
widow of S. M. Qor dead, that which we
believe equal in rental value to one third
of said Lot No 2 and bounded as follows
Beginning at (M) a water birch on the south
bank of Powell's river - thence S 36 1/4 W 142 poles
to (N) a stake in public road S 31 E 138
poles to (O) a stake on line extended from
stake (C) thence with said line N 68 W
20 poles to (C) stake Corner to Lot No 1.
thence with lines of same to (A) Maple &
double bend on south bank of river & with
said river to the beginning
Containing 35 Acres more or less -
This dower land is subject to right of way for

(5)

the removal of timber ^{from} south Eastern part
of Lot No 2, the same as Lot No 1.

All of which is most respect submitted
This the 17th day of Nov 1890

S. M. Carmichael
J. E. Hobbs
E. V. Litton } Com.

Bill of Cost

S. M. Carmichael surveying fee	10.00
J. E. Hobbs 2 days at \$2.00 per day	4.00
E. V. Litton " " " "	4.00
Ernest Gilbert Ch. Carrier 1 day \$1. per day	1.00
Floyd Cox " " " "	1.00
Douglass Graham boarding	2.00
	<hr/> 22.00

Virginia Lee County to wit:

In the office of the clerk of
the said county the 7th day of Dec.
1890. the foregoing report together
with the Plat and decrees of the
partition of the land of S. M. Orr.
decd. was this day filed in this
office and admitted to record.

Teste John B. Gibson Clerk

Reuben Orr

vs. Report of
J. [unclear]

E. H. Huntington sent

Filed Nov. 20th 1870

Ge. H. Lyatt

R. Deed Book 26 P. 214

cost

at [unclear]

at [unclear]

Virginia Lee County Court Clerk's Office the
1st day of May 1883.

The foregoing deed bearing date April 7-1883
between D. M. Orr and Rebecca his wife of
the first part, and Robert S. Orr of the second
part, all of Lee County Va. was this day ad-
mitted to record, upon the certificates of
John B. Pennington & W. R. Yeary two justices
of the peace for Lee County Va.

Teste John R. Gibson Clerk

This deed made this 7th day of April in
the year of our Lord one Thousand eight
hundred and eighty three between David M.
Orr and Rebecca his wife of the County of Lee
and State of Virginia of the one part and
Robert S. Orr of the County and State aforesaid
of the other part, Witnesseth, That
for and in consideration of the love and affec-
tion which the said David M. Orr and Rebecca
his wife bore and bear to their son the
said Robert S. Orr, and in consideration
of the sum of One hundred dollars paid by
the said Robert S. Orr to the heirs of Robert W.
Hynes deceased for the said David M. Orr and
Rebecca his wife, as well as for the further con-
siderations herein after to be mentioned, the
said David M. Orr and Rebecca his wife
have this day given granted bargained &
sold ~~partly~~ by these presents doth convey to
the said Robert S. Orr all that certain piece
of land and tract of land situated lying and
being in Lee County in the State of Virginia
containing by estimation two hundred and
fifty acres be the same more or less, and
bounded as follows to wit Beginning on a
large Bush on the bank of Powell's River cor-
ner to John P. Orrs land Thence down the
river with its several meanders to Mitchell

Cecils line thence southward with said Cecils
line to a line of Marion land, and with a line of
the same to John B Penningtons line thence
with said Penningtons lines, to the lines of John
P. Orrs land and with his lines, to the Beginning
being the same tract of land conveyed to the said
David M. Orr and Rebecca his wife by Robert
Wynn and wife by deed bearing date on the 2nd
day of July 1866, which deed is of record in the
Clarks Office of Lee County and to which refer-
ence is here made, To have and to hold said
tract piece or parcel of land to him the said
Robert S. Orr and his heirs forever, subject
to the following conditions and limitations
that is to say the said Robert S. Orr, shall fur-
nish to the said David M. Orr and Rebecca
his wife during their lives or the life of either
of them a good suitable, and comfortable sup-
port and maintenance such maintenance as
is suited to the wants necessities and con-
ditions in life, which support and mainten-
ance shall be furnished on the premises here-
by conveyed, And in further consideration that
the said Robert S. Orr shall pay to William A
Orr the sum of One hundred & fifty dollars
to Clara Anna Wills ^{wife of Morris Wills} the sum of One hundred
& fifty dollars, and to Mary Wills wife of Samuel Wills the
sum of One hundred & fifty dollars which

sums are to become due and payable in two years
from the death of the said David M. Orr and
Rebecca his wife or the survivor of them, and
these said sums are not to bear interest after said
two years shall have elapsed until demand
of payment is made, by the said parties in person
or by their legal representatives or heirs, and in fur-
ther consideration that the said Robert S. Orr
shall pay whenever demanded the sum of one
hundred dollars still due from the said David
M. Orr & wife to the heirs of Robert W. Wynn decen-
ed, and it is further stipulated that the said Robert
S. Orr shall not sell, said tract of land nor shall
it be sold for any debt or liability contracted or
incurred by the said Robert S. Orr, during the
life of the said David M. Orr and Rebecca his
wife or the survivor of them, without their full
and free consent, And it is further provided
that the sums herein directed to be paid by the
said Robert S. Orr shall constitute a lien upon
the land hereby conveyed until they and each
of them are fully paid, And the said David
M. Orr and Rebecca his wife covenant to and
with the said Robert S. Orr that they will warrant
generally the land hereby conveyed subject
however to the conditions, limitations
and stipulations herein contained
Witness the following signatures and

seals This the day and date first above
written

D M Orr 

Rebecca Orr 

Virginia Lee County To wit

This is to certify That David M. Orr whose
name is signed to the foregoing deed bearing
date on the 7th day of April 1883 This day
personally appeared before me ^{John B. Pennington a Justice of the said County} in my County
aforesaid and acknowledged the same to be his act
and deed Given under my hand this 7th day of
April 1883.

J. B. Pennington J.P.

Virginia Lee County To wit

We John B. Pennington and W. R. Geary
two Justices of the peace in and for the County
and State aforesaid do certify, That Rebecca
Orr wife of David M. Orr whose names are
signed to the foregoing deed bearing date on
the 7th day of April 1883 personally appeared
before us in our County and being examined by
us privily and apart from her said husband
and having said deed read and fully explain-
ed to her acknowledged that she had willingly
executed the same and does not wish to retract
it, Given under our hands this 20 day of April
1883.

W. R. Geary J.P.

J. B. Pennington J.P.

Robt. S. Orr
From Deed.

L. M. Orr wife

Recorded in Deed
Book No 20 P 219 &

J. R. Gibson atts

Exhibit "R.S.O."
filed with deposition of
C. J. Nunn cum.

	C.	1.25
	J.	1.00
Paid	\$	2.25

KNOW ALL MEN BY THESE PRESENTS, That we

Wm A. Orr

are held and firmly bound unto the Commonwealth of Virginia, in the sum of *Three*
Hundred

dollars, to the payment whereof, well and truly to be made to the said Commonwealth of Virginia, we bind ourselves and each of us, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents, hereby waiving the benefit of our homestead exemptions as to this obligation, and any claim, right, or privilege to discharge any liability arising under this bond, or by virtue of said office or trust, in any currency, funds, counter claims or offsets other than legal-tender currency of United States. Sealed with our seals, and dated *3rd* day of *June*, one thousand eight hundred and *Ninety three*

The Condition of The Above Obligation is Such, That whereas the above bound

Wm A. Orr
on *his petition* bill in Chancery against

addressed to the Judge of the *Supreme Court of Appeals* circuit court of the county of Lee, has obtained from the said Judge an injunction to injoin and restrain

a writ of Error for the correction of a decree of the circuit court of Lee County pronounced on the day of March 1893 in the Cause of Wm A. Orr vs E. W. Dennyford

until the future order of the said court, and whereas it is provided, by the order of the said Judge awarding the said injunction, that the plaintiff shall not have the benefit thereof until

he, or some one for *him*, shall enter into a bond, with good security, in the clerk's of of the said court, payable to the Commonwealth of Virginia, in the penalty of *Three Hundred Dollars*

Dollars, and conditioned to pay all such costs as may be awarded against the said plaintiff and all such damages as shall be incurred in case the said injunction be dissolved. Now, therefore, if the said *Wm A. Orr* shall pay all such costs as

may be awarded against *him*, and all such damages as shall be incurred in case the said injunction be dissolved, then this obligation to be void, or else to remain in full force and virtue.

Executed in the presence of

Wm A. Orr

(SEAL.)

James W. Orr

(SEAL.)

(SEAL.)

In the Clerk's Office of the Circuit Court of the County of Lee

This day personally appeared before me J. A. G. Hyatt, clerk of the circuit court of the county of Lee *James W. Orr* and made oath that *his* estate, after the payment of all *his* just debts, and those for which he *is* bound as security for others and expect to pay, *is* worth the sum of *Two Hundred* dollars, over and above exemptions allowed by law.

Given under my hand this *3rd* day of *June* 1893.

Teste:

J. A. G. Hyatt Clerk.

Wm A. C. in
appeal.
Bond

Edw. Dunnington Hunt

Filed June 3rd 1893
J. A. S. Hyatt

KNOW ALL MEN BY THESE PRESENTS, That *me Wm A Orr + James*
W. Orr am held and firmly bound unto the Commonwealth of Virginia, in the sum of *one*
hundred dollars to be made to the said Commonwealth, for which payment,
well and truly to be made I bind myself, my heirs, executors and administrators, firmly
by these presents. And I hereby waive the benefit of my homestead exemptions as to
this obligation, and any claim, right, or privilege to discharge any liability arising under
this bond in any currency, funds, counter claims or offsets other than legal tender cur-
rency of United States. Sealed with my seal, and dated *8th* day
of *March*, one thousand eight hundred and *ninety three*

The Condition of The Above Obligation is Such, That whereas a suit hath been in-
stituted in the circuit court of the county of Lee by *Wm A Orr*

vs *E. W. Pennington Amure et al*

a suggestion was entered by the *defendants* that the said
W. A. Orr is

not a resident of the State of Virginia, and that security was required of *him*
for the payment of the costs and damages which may be awarded to the said defendant
and of the fees due or to become due in the said suit to the officers of the said court. Now
if the above bound *Wm A Orr on his securities*

shall well and truly pay all such fees as are due or may become due from the said

Wm A Orr

to the officers of the said court in the prosecution of the said suit, and moreover shall well
and truly pay to the defendant all such costs and damages as may be awarded to *them*
in case the said plaintiff shall be cast therein, and condemned to pay the same, then this
obligation to be void, or otherwise to remain in full force and virtue.

Executed, acknowledged, &c., in the presence of

Wm A Orr (SEAL.)
James W Orr

In the Clerk's Office of the Circuit Court of the County of Lee

The above named *James W Orr* this day made oath
before me J. A. G. Hyatt, clerk of said court, that his estate, after the payment of all his
debts, and of such liabilities as he may have incurred as security for others, is worth the
sum of *one hundred dollars* the penalty of the above bond.

Given under my hand this *8th* day of *March* 18*93*.

Teste: *J A G Hyatt* Clerk.

E. W. Penington Secy
add ³ Bond of Off
M. A. Orr

Filed March 8th 1893
J. A. Septette

To E. W. Pennington administrator of the
estate of R. S. Orr deceased. Lizzie P. Orr.
Penda Orr & R. S. Orr Jr.

You will please take notice that on the
9th day of August 1892, at the dwelling
house of S. D. Wells, in Greene County,
Tennessee, I will proceed to take the
depositions of Rebecca Orr & others, which
depositions are intended to be read in
my behalf in a certain suit in Chancery
pending in the Circuit Court of Lee County
Virginia in which I am plaintiff and
you are defendants. And if from any
cause the taking of said depositions be not
commenced on that day, or if commenced
be not completed on that day, the taking
of the same will be adjourned from
day to day and, if necessary, from place
to place until completed.

Wm S Orr

By Counsel.

July 25th 1892.

Wm A Orr

vs. Notice

E. W. Pennington ^{Admors}

We accept legal service
of the within notice.

July 25th 1892.

E. W. Pennington

Lizzie P. Orr

E. W. R. Erving, guard-
ian ad litem for
infants.

859
200-

158
200 - 158

125-

50-

50

153

2/3 320 - 153 = 167

To E. H. Pennington administrator of the
Estate of R. S. Orr deceased, Elizabeth P
Orr, Perola Orr and R. S. Orr Jr.

You will please take notice that I will
on the 1st day of July 1892, and between the
hours of 8 O'clock A. M. and 6 O'clock P. M.
of that day, at Green Hill Church, in the
County of Lee, and State of Virginia, proceed
to take the depositions of W. R. Yeary and
others, which depositions when taken are
intended to be read as evidence in my be-
half in a certain suit in chancery now
pending in the Circuit Court of Lee County
Virginia, wherein I am plaintiff and you
are defendants, and if from any cause
the taking of said depositions be not com-
menced on that day, or if commenced and
the taking of the same be not completed on
that day, the taking of the said depositions
will be adjourned and continued from
time to time, between the same hours,
and from place to place until the taking
of the same is fully completed.

June 27th 1892.

Respy

Wm S Orr

Notice

The defendants are required to produce

at the above time and place the original
deed executed by D. M. Orr to R. S. Orr.
in April 1883.

Respectfully,

Wm A Orr

I Wm A Orr do swear that on the
27th day of June 1882 I delivered
to E. N. R. Ewing a true copy of this
notice. So help me God.

Wm A. Orr

Sworn and subscribed to before
me July 1st 1892

H B Cox J.P.

Wm A Orr

Notice

E. N. R. Ewing to whom

I Geo H Sprinkle do
swear that I delivered
to E. N. R. Ewing a
true copy of the
notice, June 27
1892.

Geo H Sprinkle

Sergeant at Law

Sworn to and subscribed
before me, June 27.
1892

C. G. Hyatt
Notary Public

The Commonwealth of Virginia.

To the Sheriff of Lee County Greeting: We command you to summon
S. C. Stallard, W. R. Geary, A. J. Lucas, Mattie
Musick, Dick Barton to appear before the Judge of
signed at Green Hill church on
our County Court, at the court house on the 15 day of the July 1892

and the truth to speak in behalf of Wm A Orr in cer-
tain matters of controversy pending in our said court between said

Wm A Orr Plaintiff and
C. W. Persimington Shovel Defendant.

And this they shall in no wise omit under the penalty of Twenty Dollars. And
have then and there this writ. Witness my hand John R. Gibson clerk of our said court at the
court house, the 29 day June 1892, in the 116 year of the Commonwealth.

H. B. Cox J. R. Clerk.

Wm A Orr

vs { Spa

E. W. Pennington
+ c/o

We accept legal
service of the
within Spa.
June 29th 1892.

S. C. Hallard

Richard Barron

A. B. Lister

Matthe Musick

The Commonwealth of Virginia.

To The Sheriff Of Lee County Greeting:

We Command You to Summon

E. W. Pennington
Adm'r of the Estate of R. S. Orr
deceased, Lizzie P. Orr, Perda
Orr, and R. S. Orr Jr.

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the first Monday
in *May* next, being rule day to answer a bill in Chancery exhibited in our said Court
against *them* by *Wm A. Orr*

And have then and there this writ. Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse.

This *28th* day of *April* 18*92*, in the 11th year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy Teste

(Orr)

Wm A. Orr

vs ³/₃ Spain Chey

E. W. Pennington & son
et al

To 1st May Rules 1892.

Executed April 29. 91
by delivering and
officer of the
militia. Spain to
E. W. Pennington
and Wm A. Orr.

C. E. Flannery
S. L. C.

Recd of Wm A. Orr
#1 ^{no} May 3
May 3 1892

C. E. Flannery